App. F. IX-4

Previous References. 194 (Law) **File No.** 83-34

Serial Nos. 3-16.

(151) D

Later References.

Law-27-42(32-33)

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for

SUBJECT.

O.S. no. 171/35-36 on the file of the Munsiff. Shimoga

~~Haji Ghania Mooza Vs~~ Agent, Mysore Railway

(Agent. Mysore Railways Vs Haji Gamni Mooza)

And the Connected appeal cases

---

59 P3

General and Revenue Secretariat. | Law File No. 83 of 1934. | [App. F. III-2

From,

The PPr Shimoga

No. 335 dt 15.4.35 forwarding for approval draft plaint in the proposed suit against Mr. Haji Ganni Moosa of Shimoga.

1) Sanction was accorded in G.O. dt 13.12.34 for a suit against Mr. Haji Ganni Moosa of Shimoga for recovery of a sum of Rs 572-12-0 said to be due on invoice no. 7 of M/s May Ex: Mangalore Harbour to Harnahalli

Facts of the Case are briefly set forth in para 2 of the Law file 83 ante pending below The draft plaint seems to be in order and maybe.

ISD 22/4

2) The plaintiff ought to be the Govt of Mysore & the plaint may be signed by the Agent as he has been duly authorised in this behalf in G.O of 13.12.34 (Flag 7)

3) The plaint is in duly respect revised & ~~may be approved~~. The case is an important one and depends on a nice point of law ~~(illegible)~~ regarding ~~money~~ contribution etc — The PPr, Mysore has dealt with this in its initial stages & if approved I shall duly consult him regarding the Draft plaint now sent by the PPr Shimoga

(Yes) 22/4

4) Yes ITES 23/4

5) As DO 22/4

NOTE—Contn. Sheet.

GENERAL SECRETARIAT
22 APR. 1935

6384

File No. 83 of 1934

General and Revenue Secretariat

fr D.o. Sub? for appl?

7) Issue appl?

To,

The Sec. Mys.

D.O. no. S. 5904 dt 25.4.35 forwarding re dft plaint for opinion

Dear,

The Sec. Mys.

D.O. no. 1120 dt 4.5.35 stating that in order to proceed in the suit we have to establish a prima Contract under sec 69 or 70 of the Contract Act and that a dft plaint may be prepared in the light of the suggestions

8) The Sec. Shimoga Proj may perhaps be asked to revise the draft plaint on the lines of the Mys. Govt's note and to resubmit the same for appl? of Govt.

ISD
13/5

10) Dft sub? accordingly

JSD 14/5

11) Issue
mm
14/5

TYPING SECTION 14. MAY 1935 GENL & REV. SECTT.

To,
The Bor. Shimoga
no. B. 6316 d. 16.5.35 instructing to
revise the plaint on the lines of the note sent

Sur A
17/5/35

Sir,
The Bor. Shimoga
no. 2 d. 17.7.35 forwarding the revised
dft plaint for appl

12) Sub? with a dft Calling for the records together
with the note sent for ref?

JSD
15/7

13) Issue
mm
16.7.35

TYPING SECTION 16. JUL. 1935 GENL & REV. SECTT.

Issued no. C. 381 d 17.7.35

Sur A
18/7

Sir,
The Bor. Shimoga
no. 3 d 19.7.35 forwarding the Connected
records.

14) The dft plaint has been revised in accordance
with the note sent by the Bor. Mgr
Sub? for orders.

JSD 20/7 — 15) This may be sent a print to the Bor
Mysore, with a request that he
may revise it as he thinks best in

Law File No. 83 of 1934

General and Revenue Secretariat

16) Sch? with a dft. Do. accordingly

ISD 25/7

17) Issue

DSP 25/7

Issued no. 693 d 29.7.35

Sec A 29/7

From,

The Pol. Agt.

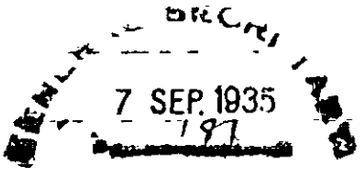
D.O. 293 d 4.9.35 forwarding a revised plaint for approval.

8) If appl? this will be sent to the Pol Agent for necessary further action.

ISD 7/9

19) The plaint as revised by the Pol. Agent is all right and may be approved

(Sd) DSP 7/9



20) ITM 10/9

21) DO DSP 10/9

24) The institution of the suit was sanctioned on Dec 1934 & it is now nearly 9 months. DSP

O.S. 171/35-36 – Mysore Shimoga
(Agent Mys. Rly vs Haji Ganni M[illegible] 580
6/37 (4)

General and Revenue Secretariat — Lar-File No. — [App. F. III—2

Serial No.

From,

The Dist. Shimoga
no. 360 d 26.3.36 forwarding a copy of the issue framed in the above case Subt for perusal.

25) The Dist will be asked to send copies of the plaints, & the w. St. for ref if applt. + Tahs, refds
TSD 29/3

26) Yes if we have not these copies in the file
Noted 28/3

27) These copies are not available in the file.
Dft sent
TSD 30/3

28) Issue
Noted 29/3

Issued no. P. 6505 d 4.4.36

From,

The Dist. Shimoga
no. 391 d 6.4.36 forwarding copies of pleadings for reference and return.
Subt for perusal

29) The enclosures to the D.W.D have to be forwarded to keep copies in the file for reference. This may be sent to the Typ. Section

O.S. 171 | 35-36 - Mg. Shimoga 6199 |

Law File No. of 193 | General and Revenue Secretariat

Dft returning ex copies of plaint exe proceedings

D 17/4

32) Issue after carefully comparing the copies retained here for reference

MRL 17/4

Issued no. 6542 dt 21.4.36.

Sub C 22/4.

Letter No. 35, dated 17th/18th July 1936 from the P.P., Shimoga forwarding proper report in O.S. No. 71/35-36 (The Traffic Manager Mys: Rys: V Haji Gaffar Mossa) together with a copy of objections to be filed to the applⁿ of the Deptt.

16th July 36 Issue

33) Subd. ~~for perusal~~. This will be returned after perusal.

B 23/7/36 MRL

34) A copy of the ~~Dft~~ applⁿ may be retained here before the it is returned to the P.P. He has to be asked to send copies of all applⁿs, Objn statements etc as soon as they are filed

MRL 23/7

35) Dft Subd. MRL 25/7 MRL

36) Issue MRL 27/7

To the P.P., Shimoga No. P765 Law 83-34-10, dated 28th July '36.

Sub C 29/7/36

5240 1997
O. S. 171/35-36 Munsiff Ct, Shimoga

General & Revenue Secretariat. | File No. Law 83 of 193 L. | [App. F. III–2

Serial No.

37) Subd. The copies of applications and other and order amending the issues have not yet been received. A dft. Calling for the same is put up for approval.

SB
29/10

Issue
P.C.W.J.G

38) Issue
P.C.
31/10

To
The P. Pr
Bangalore
No. P 2908, dt 3-11-36
States that the copies of ~~pleadings~~, applns, etc are not received.

39) Subd. Kind reference is invited to para 34 supra and to ~~the~~ this office letter dated 27th July 1936 to the P. Pr., Shimoga Several reminders have been issued in this Connection, all for no purpose It is reported in the Qly Statements ending with 31-12-36 that the evidence for the plaintiff has been closed. For orders...

SB
5/4

40) Report ~~as~~ as further progress in the case may be awaited.

NRD

O. S. 171/35-36 on the file of the Mys Ch
(Traffic Manager, Mys Rys & Hagi Gan Works)

Law File No. 83 of 1936-37 | General and Revenue Secretariat

From

The P. Pr.

Shimoga

Letter no. 580, dated 23-5-37

Forwards copies of the application filed by the Defts order passed by the Court on that applin and of additional issue framed in the Case, namely,—

"Is the Suit bad for non-joinder of parties

Reference para 34 supra.

41) The P. Pr. has forwarded copies of the application filed by the defendant, order passed by the Court on that, and of the additional issue framed in the Case.

The case has been adjourned to 3-6-37 (Vide Progress Report placed below)

Submitted for perusal.

Sus c
27-5-37

42) BNR 27/5

27/5/37

43) A dft-Reminder is sent up.

16/9/37

44) I Shee

Issued Mys. 1599 BNR 16.9

17/9/37

O. S. 171/35-36 M/H, Shimoga
(Mysore Railways vs Hyder Saheb Noorsa)

General and Revenue Secretariat | File No. Law 83 of 1936 | [App. F. III—2

Serial No.

From

The P A.

Shimoga

Letter no 290, dt 18-9-37

Forwards a copy of judgment and decree passed in the case.

45) This is a suit for recovery of a sum of Rs 630/- with interest, being the Customs duty paid by the Plaintiff to M.S.M. Railways in connection with the consignment of Sugar addressed and delivered to the defendant. The learned Munsiff has decreed the suit with costs against the defendant. The copy of the judgment is submitted for perusal

46) The P. Pr. reports in P. U. D. that the defendant has filed an appeal against the judgment and decree (R.A. 10/37-38), and that the appeal is posted to 6-10-37 for hearing. It is submitted that no intimation regarding the alleged appeal has so far been received

47) The copy of judgment for perusal

GENERAL SECRETARIAT
22 SEP. 1937
1694

OFFICE OF THE
FIRST MEMBER OF COUNCIL
SEP 24 1937
No. Confl. Sect.
No.

WD 0417—GPB—30,000—8-9-36

49) Gen-Secy) 22/9 BKR 22.9.37

BKR 22.9

This decree

O.S. 171/35-36 Myf's ch Shimoga
Mysore Rys vs Haji Gani Mossa) 1853
[R.A. 10/37-38 of ch. Shimoga

File No. Law 83 of 193 4

General and Revenue Secretariat

Serial No.

Advocate's fees Rs 31-8-0.

58 Kind reference is invited to P. P's letter (P.V.D.) wherein he States that the defendant has filed an appeal against the judgment in the above Case which is posted to 6-10-37 for hearing. He Requests that the judgt Copy may be returned to him. But So far no intimation has been received regarding the alleged appeal.

59) If approved the judgment copy will be sent to the Agent, Mysore Rys for taking necessary action towards Recovery of Costs.

60) The papers may now be returned to PP as he says that appeal is for hearing on 6-10-37)

BKR
30.9.

55) Submd with a dft for approval.

56) Sd/- 1-10

Issued no P. 1906, dy 1-10-37

Appeal posted to 8-1-38 for arguments (Qly Return Dec: 37)

Posted to 20-6-38 (Qly ett March '31)

Posted to 22-7-38 (Qly ett 30th June

Sd/- C 9.

4 8 7 1049 R A. 10/37-38 Dt ct Shimoga
(Haji Galli Moosa vs Mysore Rys.)

General and Revenue Secretariat | File No. Law 83 of 1934. | [App. F. III—2

Serial No.

The recent quarterly return does not report about the progress made in the case. A draft to the P. Pr Shimoga enquiring about progress is put up for approval.

11/3

13.3

Issued no P 4888, dy 13-3-39

Lrs A 14-3-39

From

The P. Pr.

Shimoga

Letter no. 164/39-40, dy 14-8-'39

Forwards a copy of judgment and decree in R. A. no 10/37-38 on the file of the Dist judge, Shimoga together with other records, and states for reasons given, that a Second Appeal may be preferred to the High Court and Suggests for consideration that a Suit may be filed against one L Virupanna

57) The copy of the judgment in R.A. 10/37-38 on the file of the Dist judge, Shimoga (Flag D) is for perusal It will be seen that the learned judge has passed a judgment allowing

Proposal to file Second Appeal to H Ct against the judgment of the Shimoga Dt judge in R.A. 10/37-38 (Hajee Gani Moosa v Govt) of 1934.

File No. Law 83

General and Revenue Secretariat

the appeal and dismissing the Plaintiff's (Govt.) Suit.

58) The P. Pr. Shimoga, for the reasons discussed in P.U.D. is of opinion that a Second Appeal may be filed to the High Court. He also suggests that for consideration whether a fresh Suit cannot be filed against one Virupanna.

59) Govt. Advocate may perhaps be consulted in the matter.

Law Secretary). 60) 3/17/8

6p) 6/17/8

6r) Pl forward rel compliments to Govt-Advocate for his opinion if this case is fit for appeal or not.

[illegible]
18/8/39

Appeal time expires on 29th September 1939.

SECY. LAW 1106 17 AUG. 1939 GOVT OF MYSORE

Fno. 157/39-40 on 12.8.39

eturned with compliments.

(1) The learned District Judge concurs with the learned Munsiff on many points except in respect of two which cut at the root of the Plaintiff's case, the points being that it is not proved that the defendant was either the consignor or the consignee which by itself is enough to non-suit the Plaintiff. His decision on the next point that in any event Virupanna

No. 80. 18 39-40 8/8/39

SECY. LAW DEPT. Law 9 SEP. 1939 GOVT OF MYSORE

Serial No.

Virupanna was not the agent of the Defendant makes the decision against the Plaintiff even more firm.

(2) I have examined the evidence to the extent to which copies have been made available in the file - and I regret to say there is no option but to agree with the learned District Judge and the learned - Public Prosecutor who concurs with him on the point that the evidence is very insufficient to connect the defendant with the transaction or to prove that Virupanna was his agent. The railway note is silent thereon and unfortunately a portion of it is torn. We do not know whether it contained particulars favourable to the Plaintiff or to the Defendant? The only evidence is oral, consisting of the testimony - of two witnesses Nos. 4 and 5 for the Plaintiff. - So far as the former is concerned it is not of much use as all that it says is that "A" did something - on behalf of "B" on some occasions subsequent to - the transaction in question which cannot legitimately yield an inference that "A" was the agent of "B" on an earlier occasion also, unless the jural relationship of "agent" and "principal" between "A" and "B" is established.

(3) No doubt. P.W.5's evidence is direct, but he is the person on whom the incidence of the payment of the - customs-duty may likely fall. On that ground, his evidence is discounted by the learned District Judge and it cannot be said that it is wrong.

(4) The learned District Judge may not be right in suggesting that the Plaintiff should have examined - the defendant's clerk and the alleged agent Virupanna.

Serial No.

I do not think that the Plaintiff can be expected to take such a risk in examining his opponent's clerk or a person who according to him (plaintiff) is his (defendant's) agent. One cannot reasonably expect of the agent to give evidence in favour of the plaintiff which, if true, would make him liable in the alternative of his agency not being proved, while if he is really the agent, being interested in his principal, he will naturally swear against that fact. Therefore, though the Plaintiff may not be blamed for not examining these two persons, that will not give an enhanced value to the purely oral evidence adduced by him. In other words, the value of the testimony of witness No. 5 for the Plaintiff will not get accelerated on that ground.

(5) Another point in favour of the Plaintiff is the rather studied silence on the part of the defendant with reference to the notices which were admittedly received from the Plaintiff regarding his liability for the suit amount. One may infer that the defendant had no particular defence to offer at that stage. But, that by itself will not be sufficient to fasten the liability on him in the absence of other dependable evidence on the point. It would have been a point of subordinate importance if, on Plaintiff's side there had been adduced some more trustworthy evidence, preferably documentary.

(6) An aspect not so far noticed in this connection is that the defendant did not produce his accounts for the relevant period. Very likely, they would have shown whether he had made entries to indicate that he received profit on this transaction. Here again,

I think, the Plaintiff should have called upon ~~xxx~~ the defendant to produce the accounts. It would be a very weak inference for the court to draw - against the defendant on the ground that he did - not voluntarily put the accounts before Court.

(7) Paragraph 3 of the Plaint alleges that Virupanna was the agent; para 2 of the written statement definitely denies that. In the very first instance, Virupanna might have been made a party claiming relief against him in the event of the - Court coming to the conclusion that he was not the agent of the defendant. Such a relief could have been asked at least after the defendant's denial in the statement of Virupanna's agency. Instead of that, what was done was to allege in para. 9 of the plaintiff's reply statement to the effect that "The Railway receipt was surrendered by one Virupanna who represented himself to be the agent of ~~a~~ the defendant ~~xx xxxxxxxxxx~~ and the goods were - therefore, delivered to him on the assurance ~~that~~ and in the bona-fide belief of his being the defendant's agent, since he produced the Railway receipt made out in the name of the Defendant". With great ~~x~~ respect, I think it was hardly a sufficient allegation to make on which even if it had been proved one could expect the Court to come to the conclusion that Virupanna was the Agent. Assuming for the - sake of argument that enough evidence was put before the tribunal to satisfy itself about the - truth of this allegation, in effect, it means this:

"A" calls himself an agent. He brings some paper which should have been in the custody of "B". "C" to whom this representation is made by "A" believes in it and therefore, "B" is liable, however innocent he may be regarding "A"'s representation to "C" or by whatever doubtful means the receipt might have gone from "B"'s custody to "A"'s. In other words, a liability can be fastened on a third person at the instance of one with whom he had nothing to do, provided that one makes a representation to somebody else who is credulous enough to believe it when that representation is reinforced by some document which should ordinarily be in the custody of the alleged principal though the said document went out of his custody owing to circumstances beyond his control. If that should be a correct proposition of law, the position of many innocent persons would be very precarious. I think the pleading was insufficient in law to establish the agency.

(6) The learned Munsiff in paragraph 14 of his Judgment observes as follows:-

> "If the plaintiff was an extremely cautious litigant he would have joined Virupanna as a ~~litigant~~ defendant as a safeguarding measure, now that the defendant comes forward to deny the agency of Virupanna in the matter of receipt of the goods. But the plaintiff has not adopted the course. If he has not chosen to add virupanna as a party, he takes the risk",

the risk being the dismissal of the suit in the event of virupanna's agency not being established. It is not established that virupanna was the agent and the alternative relief is not claimed against him on the ground that ~~himself~~ he took the goods in his own right. In these circumstances, I regret to state that money to be spent

in the shape of court-fees and perhaps, a large sum in printing the record may not all be very usefully employed.

(9) No doubt, the learned Public Prosecutor says after observing that the evidence regarding the agency or of the factum of the defendant being the consignee is insufficient, that the appeal may be - filed because the learned Judge's findings on these points differ from those of the Munsiff. What the Public Prosecutor may perhaps have in mind is that an appeal is maintainabe in law because the findings are different. That is a very much different - thing from saying that the appeal may be successful in the end.

(10) In my opinion, it may not be worthwhile pursuing the matter further.

(11) The only other point referred to is regarding the feasibility of a suit against Virupanna on the ground that he took the goods in his own right.

(12) So far as the question of limitation is concerned, there may not be much difficulty. The suit is by the Government of Mysore one of whose Departments is the Railway administration which wishes to recoup the amount that the consignee had to pay but did not and which was paid by the Railway authorities. The suit in appeal under consideration was filed by our Government represented by the Agent, Mysore Railways. Article 149 prescribes the period of sixty years for suits by the Government without placing any restriction on their classes irrespective of the origin of the cause of action, whether in their sovereign capa-

or public utility concerns. Therefore, there may be x no difficulty in meeting a plea of Limitation.

(13) There is also no trouble regarding the bar - under Order 2, Rule 2 of the Code of Civil Procedure, as, though the nature of the relief will remain the same, - being by way of recoupment, the cause of action for a suit against Virupanna is different from that against the defendant. In the suit under appeal, part of the cause of action is the benefit which the defendant reaped. In the - contemplated suit against Virupanna part of it will be the benefit which Virupanna reaped for himself and not as Defendant's agent. What order 2, Rule 2, hits at is splitting up of the reliefs and their distribution in more than one suit when they are founded on the same cau of action. There being no identity of the cause of - action as mentioned above, Order 2, Rule 2, will not be a bar.

(14) Section 11 of the Code of Civil Procedure will also xx not be a bar as the Defendant will be different and Virupanna cannot claim to be a person deriving - title from him according to the scheme in the contemplated suit.

(15) Though thus, there will be no legal bars in the way of a suit against Virupanna there are some points of consideration from the aspect of practical convenience. On behalf of the Government, some of their - Officers like P.Ws. 4 and 5 swore that Virupanna was the agent of the Defendant in the suit under appeal. Can they be allowed by the Government to turn right about in the opposite direction and give evidence that Virupanna took the goods in his own right and not as Defendant's agent even assuming -- very uncharitably indeed --

as indeed -- that those witnesses are prepared to give evidence of that kind. If their testimony is to be eliminated on account of this awkwardness, - can other evidence be given to the effect that Virupanna took delivery for himself? Possibly not. - We may even contemplate the likelihood of Virupanna himself giving evidence that he is the agent of the Defendant, since he could do so with immunity for his principal (the defendant) who cannot be touched again by reason of the decision already in his favour having become final. These are a few aspects which make one hesitate to suggest a suit being filed against Virupanna though as mentioned already, if he had been sued in the very first instance along with the Defendant, no such difficulties as present themselves now, would have arisen. Thus, the difficulties in suing Virupanna are not legal so much, as - those based on practical and prudential considerations.

Mark. Markham
Navaratnam

Government Advocate.

1049
P

64)

The Public Prosecutor, Shimoga, holds

1) that a second appeal may be preferred to the High Court and

2) a fresh suit may be filed against Virupanna himself as Principal.

The Government Advocate, however, differs from these view and has given his reasons therefor. The main reasons wh the case went against the Railway appear to be

1) that Virupanna was not made a party to the original suit and

2) that the accounts of Haji Gani Moosa were not summoned and examined in the Munsiff's Court.

When the case was first filed, the particular line of defence adopted by Haji Gani Moosa was not anticipated. As he did not at first deny his connection with the consignment in spite of several notices, this fact has been held to be in our favour by the Lower Court; but, the District Judge has discounted the value of it considerably. As to what records and accounts had to be summoned and in what form and against whom the case had to be filed, the Railway depended entirely on the advice of the then Public Prosecutor. The original plaint has also received the approval of Government in the Law Department. Apparently the case now suffers through certa omissions that occurred in these matters in the initial stages. In the opinion of the Government Advocate who will in all probability have to conduct the case in the High Court, if it goes there, these omissions are not now capable of rectification. This does not encourage us to press the appeal. In the circumstances the matter appears to be one to be decided by the Law Department.

Y. K. Ramachandra Rau

Law Secretary
with compliments.

GENERAL MANAGER,
Mysore State Railway
11th Septr., 1939.

Serial No.

65) I consider that this is a fit case in which an appeal to the High Court may be filed. The Mysore Railways sued the defendant for recovery of certain customs dues which they paid to the M.& S.M.Railway which the latter had to pay on 32 bags of sugar consigned from Marmagoa harbour to Haranahalli railway station The Plaintiff's case is that the defendant got this sugar consigned that he passed on the railway receipt to one Virupanna who took delivery of these goods. Since the customs dues paid had by mistake been omitted in the railway receipt, the Station Master at Haranahalli did not recover it from the party. Subsequently the M.& S.M.Railways had made the payment after correspondence recovered it from the Mysore Railways and the latter have sued the defendant. The defendant has denied that he got the goods consigned and repudiates the liability. The Munsiff's court decreed in favour of the Mysore Railways, but the District Judge in appeal reversed the decree and dismissed the suit. The District Judge's judgment does not appear to be entirely supportable and seems to have taken a narrow view and has not considered all the probabilities. The principal evidence in that case is that of the Station Master at Haranahalli. The District Judge has disbelieved him on the ground that if the railway does not recover the money

WD 01536—GPB—7,500—5-4-34

from the defendant, the Station Master would have to reimburse it on the ground of negligence in failing to recover the money at the time of delivery. This is not a correct appreciation of the position. The Station Master is a Government servant and is not interested in fabricating false evidence against the defendant. His evidence indicates that he has done what any Station Master would do in the ordinary course of business. The railway receipt was brought to him by the defendant's clerk Venkoba Rao and one Virupanna to whom it is said to have been assigned. The Station Master therefore delivered the goods to Virupanna. There is no reason to disbelieve his evidence. It is not probable that he would be held liable by the railway. He did not collect customs dues as there was no entry on the way bill of such dues having been paid. It will not be possible to lay the blame on the Station Master in these circumstances. The reason of the District Judge for considering him interested does not hold good. After all he has done what every Station Master or goods clerk does. In cases of this sort his evidence would be the best evidence and it is taking a very narrow view to discount such evidence. Whilst there is the evidence of the Station Master on behalf of the plaintiff, the defendant has not produced any evidence in rebuttal.

Serial No.

There is therefore no reason to disbelieve the evidence on behalf of the plaintiff. When it is specifically stated that the defendant's clerk and Virupanna who - there is ample evidence - has had similar transactions with the defendant on other occasions, had come to take delivery, it lay on the part of the defendant to rebut this evidence by examining Virupanna and his (defendant's clerk. The plaintiff cannot be expected to examine the clerk & agent of the defendant.

66) There is evidence that Virupanna had taken similar assignments of railway receipts from the defendant in taking delivery of railway goods. This is his conduct which would be relevant to what happened in the case under consideration. It cannot be brushed aside by saying that it ~~would~~ could not be inferred therefrom that Virupanna had on the occasion in question also taken delivery on behalf of the defendant.

67) The best evidence on the part of the defendant in this case in rebuttal would have been to produce his account books. If he had ordered for the goods and had delivered the railway receipts to Virupanna as alleged, there would have been entries in his account books. Omission of such entries in his books would go far to prove his case. The District Judge seems to have thought that the plaintiff should have summoned him to produce his account

Proposal to file Second Appeal against the judgment of the Shimoga Dist Judge in R.A. 10/37-38

104/1 D

File No. Laws 83 of 1934

General and Revenue Secretariat

OCT 10 1939
No 3477

account books. I do not consider that there was any such duty on the plaintiff. There is ~~the~~ a duty on the defendant also to put in rebutting evidence which is within his control.

(68) Though two notices were issued to the defendant by the railways, the defendent did not choose to repudiate the claim. This is conduct from which an inference can be drawn against the defendant. It is not an argument that the defendant was not bound to reply to notices that he received. The notices were ~~very~~ from a responsible department of Government and were not frivolous ones. There is evidence that Virupanna has taken/delivery ~~on behalf of consignees of~~ of a number of consignments of goods addressed to the defendants at Haranahalli.

(69) Though the Government Advocate has noticed some of these points in favour of the plaintiff's case, still he considers that it may not be useful to file an appeal. The cumulative effect of all the principal facts mentioned above may lead to a decision in favour of the plaintiff, though each pointeby itself may be criticized/nas been done by the District Judge. Since there are differing judgments of two courts, the High Court will go into questions of facts also. The cost of appeal will not be very much and I would suggest that an appeal be filed.

(for Member)

1049
P

General and Revenue Secretariat | File No. | of 193

Serial No.

70) Please send the relevant records to the G. Advocate alongwith request him to file the 2nd Appeal in the Case further, wherein the General Manager Nagpur Railway Steel Plant has been sent to the J. A. for the purpose of filing a 2nd Appeal, & that necessary instructions may be given to the J-A for the purpose

3
15/10/39.

A draft G.O sanctioning the second appeal is put-up.

It is for consideration and orders whether a copy of the opinion given in paras 65-69 may be furnished to the G. A, if it is considered that such a course would facilitate him to a certain extent-

~~Attorney~~ - on further consideration, I feel, that the opinion may be given to the G. A. to draw up the line of appeal

15/10/39

Law Secy. 3
15/10

Law

Law 83-36-3

192

From

The Public Prosecutor
Shimoga Division
Shimoga.

To

The General Secretary to the Govt. of
H. H. the Maharaja of Mysore
Dated 13-4-35 Bangalore
Despatched 15.4.35
Received
General No.
No. 335
Enclosure No. Two only

GENERAL SECRETARIAT
17 APR. 1935

Refer
Dept
17/4

Sir,

I have the honour to forward herewith for approval of the Government the draft plaint in connection with the proposed suit to be filed on the file of the Munsiff Shimoga against Mr. Haji Gani Hoosa Belgaumwala Shimoga for the recovery of amount due by him under invoice No. 2 of 29-5-1933 Ex Marmugao Harbour to Haranahalli and to request

Request you to forward the plaint in approved form to the Traffic Manager for the Signature of the Agent Mysore Railways. The file of Records are herewith submitted for reference and return.

I have the honour to be
Sir,
your most obedient Servant
B. Krishna Rao
Public Prosecutor
Shimoga Division.
13. 4. 1935

Confidential.

D. O. No. P3904 Eco

GENERAL AND REVENUE SECRETARIAT,

Dated, Bangalore 24th April 1935

3

Dear Mr. Ramaswami,

I am directed to forward herewith a copy of the draft plaint prepared by the Public Prosecutor, Shimoga together with the connected records in proposed suit against Mr. Hajji Ghani Moosa of Shimoga for recovery of sum of Rs. 572-12-0 said to be due on invoice No. 2 of 27th May 1933 Ex. Marmagoa Harbour to Harnahalli and to request you to kindly favor Government with your suggestions if any in the matter.

Yours sincerely,

Section. Rev & Dfft Exam

File No.

Serial No. D5904/

No. Confidential

To

Diary No. of letter replied to.....

General and Revenue Secretariat.

( )

the *193*

Date of issue 25/4/35

Signed by M.K.N.I.C.S.

Dear Mr. Ramaswamy

I am to forward herewith a copy of the draft plaint prepared by me Mr. Shimoga together with the connected records in the case prepared thereon against Mr. Hajigami Mosa of Shimoga for recovery of a sum of Rs. Six-nine paid & due on invoice No. 2 | 27.5.33

Ex: Mamaga Harbour to Honawar and to request you to kindly favour Govt with your suggestions if any in the matter dealt with in the Case in its final

6384
pb

K. Ramaswami, Esq., B.A., B.L.,
Public Prosecutor,
Mysore Division, Mysore.

Mysore,
4th May 1935.

CONFIDENTIAL.

D.O. No 148

Dear Mr. Jaya Rao,

With reference to your confidential D.O. No. P. 5904 dated 24/25th April 1935 asking me to give my suggestions in the proposed suit against Messrs. Haji Ganni Moosa Belgamwala of Shimoga, I beg to enclose a small note in which I have invited your attention to some of the salient features of the litigation.

2) It must be admitted that the R.A.S.M. Harnahalli was responsible for letting the goods out from negligence. The M. & S.M. Railway cleared the customs duty and expected reimbursement from the Mysore Railways. The latter reimbursed the M. & S.M. Railway and are now trying to recover the amount from the party.

3) In order to succeed in the suit we have to establish a quasi-contract under Section 69 or 70 of the Contract Act. To my mind Section 70 appears to be more appropriate. In all probability the claim will be contested. We must therefore set out the facts more clearly and wherever necessary we must quote Tariff rules and Conference resolutions.

4) I hope you will consider the position in the light of my suggestions and if necessary put up a draft plaint yourself for the acceptance of the Government. I would have relieved you of the trouble but I have no orders.

The draft plaint and the records are herewith resubmitted.

Yours sincerely,

K Ramaswami

N.R. Jaya Rao, Esq., M.A., LL.B.,
Asst. Secretary to Government,
Law Department, Bangalore.

Appendix F G—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 16/3/35

Signed by .....

Section Laeii

File No. 83-34

Serial No. 4

No. PC 3926/Sr Records

To

The Pr. Shimoga

Sir,

With reference to your letter no. 335 dt 15.4.35 forwarding a draft plaint in the proposed suit against M. Haji Ganu Moosa, Shimoga for recovery of the amounts due under invoice no. 2/1930 Ex. Mangalore Harbour to Honnavalli

~~suggested by him and submitted~~ for

approval of your

Hs. lecture note of papers

along with the charge sheets is

herewith returned

D Lawrence

Dir Gen (Secl)

TSD

14/5

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P6326

Dated, Bangalore, 15th May *193*5

16

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,

Shimoga.

Sir,

With reference to your letter No.335 dated 15th April 1935 forwarding a draft plaint in the proposed suit against - Jr. Haji Ganni Moosa, Shimoga, for recovery of the amount due under invoice No.2/29-5-33 Ex-Jarmagao Harbour to Harnahalli, I am directed to request you to resubmit the draft plaint duly - revised in accordance with the suggestions made in the note - herewith cent. The entire file of papers sent is herewith returned

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- H. V. Ramaswami,

General Secretary to Government.

Memo No. P6327

Bangalore, dated the 15th May 1935.

15

Copy of the above is forwarded xkkxxxxx to Jr. K. Ramaswami, Public Prosecutor, Mysore, for information.

By Order,

For General Secretary to Government.

3/10/35
Law 83-34-S—

—GPB—

From The Public Prosecutor
Shimoga Dist
Camp Chitradurga

To The General Secretary
to
The Govt of H. H
The Maharajah's
Bangalore

Dated

Despatched 12-7-1935

Received

General No. 2
No.

Enclosure No. 1

GENERAL SECRETARIAT
13 JULY 1935

Dear Sir,

Subject:— The suit to be filed against Mr Haji Ismail Rowther Belagam- wille of Shimoga —

With reference to your letter No. P 7168/Secret 28-6-1935 calling for the revised draft of the plaint to be filed against Mr. Haji Ismail Rowther Saib of Shimoga, I have the honour to submit a copy of the revised draft in the light of the note of Saib along with the original

draft and to request you
to return me approved draft
duly signed + verified to be
presented to me exact
I have the honor to be
Sir
Your most obedient
Servant.

B. Krishna Rao
Public Prosecutor

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P381 / 17

Dated, Bangalore, 16th July *193*5

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,

S h i m o g a.

Sir,

With reference to your letter No.2 dated 12th July 1935 forwarding the revised draft plaint in the proposed suit against Mr. Haji Ganni Moosa of Shimoga, I am directed to request that the records together with the note ~~sheet~~ next with this office letter No.P. 6326 dated 16th May 1935 may kindly be sent immediately for reference and return.

I have the honour to be,

Sir,

Your most obedient servant,

pme

for General Secretary to Government.

JSD

Appendix F.G—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 17/7/35

Signed by .....

List of enclosures .....

Copied by .....

Examined by.....

Section

File No.

Serial No.

No. P-381/—

To

The P.O. Shimoga

Sir,

With reference to your letter no. 2 d. 11.7.35. forwarding the revised draft plaint in the proposed suit against Mr. Haji Ganni Moosa of Shimoga, I am directed to request that the records together with the note pencilled with this office letter no. P. ~~3116~~ 6326 d. 16.6.35 may kindly be sent immediately for reference and return.

I have the honour to be,

Sir,

Your most obedient servant,

for Secretary.

TSD

17/7

S 12 / p 835

WD 215—GBPM—58,000—15-8-33.

19

From The public-prosecutor,
Shimoga-Division
Shimoga

To
The General Secretary to
The Govt of Mysore
Bangalore

Dated 19-7-35

Despatched 19-7-35

Received 22 JULY 1935

General No. 13
No.

Enclosure No. 2 files

Sir,

With reference to your letter no. p. 3818 dated 16th July 1935, I have the honour to forward herewith, the records connected with the case of Mr Haji Ghani Mirza

f - Limoges. Request you to return the same after done with

Thanks Mr Lonsdale

Sir,

Your most obedient
Servant
B. Turnbull
public-prosecutor
Limoges.

D. O. No. P 693 GENERAL AND REVENUE SECRETARIAT,

Bangalore, Dated, 26th July 1935.

Dear Mr. Ramaswamy,

I am to invite reference to the memo No.P.6327 dated 16th May 1935 forwarding to you copy of the letter addressed to the Public Prosecutor, Shimoga for revision of the draft plaint in the proposed suit against Messrs: Haji Gani Moosa, Belagamwala of Shimoga for recovery of the arrears due under Invoice No.2/29-5-33 Ex:Marmugao Harbour to Harnahalli. The revised draft received now is herewith enclosed and I am to request you to kindly go through it and make your suggestions, if any. You are at liberty to revise the draft as you think best.

The connected file of papers are herewith sent for reference and return.

Yours sincerely,

BRL

Section

File No.

Serial No.

No. P.693/— Ex Records

To

Dear Mr. Ramaswamy,—

I am to invite reference ~~to your letter referred to in your~~ to the memo: no: P6327 dated 16 May 1933: ~~Do. no. 1410 of 4th May 1933 re~~ forwarding to you copy of the letters addressed to the proposed suit against Mana Hajigan Mana Beligamwala of Shimoga for recovery of the arcas due under Due no. 1 93-33 Ex: Marugod Hathe & Hanalall. ~~I am to forward~~ The revised draft received now is herewith enclosed and ~~herewith the draft plaint duly revised~~ I am to request you to kindly go through it ~~in accordance with your note and~~ make your suggestions, if any. You are at ~~liberty to request you to send back the~~ liberty to revise the draft as you

K. Ramaswamy
Public Prosecutor.

Mysore
Dated 2nd Septerber35.

Dear Sir,

The records relating to the proposed suit against Mr. Haji Gani Musa Sait of Shimoga were forwarded to me more than a month ago and I have been asked to revise the draft plaint.

On a former occasion when I drafted the plaint in this case the Claims clerk of the Traffic Manager's office had brought to me certain notifications and Conference Rules relating to the recovery of customs duty paid by Foreign Railways.

I have not been able to revise the draft plaint without reference to the Conference Rules once again. Hence the delay in resubmitting the papers to you.

I shall go and meet the Claims clerk to-morrow and expedite the submission of the plaint and the records.

I requested to be excused for the delay already occasioned.

Yours Sincerely,
K. Ramaswamy

N.R. Jaya Rao Esqr. M.A.,L.L.B.
Assistant Secretary to Govt.
Bangalore.

Subt for favour
5/9

Dear Sir,

The records relating to the proposed suit against Mr. Haji Gani Musa Sait of Shimoga were forwarded to me more than a month ago and I have been asked to revise the draft plaint.

On a former occasion when I drafted the plaint in this case the Claims clerk of the Traffic Manager's office had brought to me certain notifications relating to the recovery Railways.

1573 P 35

Mysore,
4th September 1935.

D.O.No. 293
Encl. one file

Dear Sir,

In continuation of my D.O.letter No.276 of yesterday, I beg to enclose for your approval a fresh draft of the plaint in the proposed suit against Mr.Haji Gani Moosa Sait of Shimoga. In my opinion the legal ground of the Defendant's liability and the facts that gave rise to that liability must be clearly set out in the plaint. The claim is a very simple one. M.S.M.Railway made a mistake in not noting the customs duty on the invoice. The Mysore Railways ought to have noticed the mistake and corresponded with the M.S.M. Owing to that omission the Defendant was enabled to take delivery of the goods. The M.S.M. never meant to do a gratuitous act when they paid the customs duty to British Customs Manager. The Defendant has enjoyed the benefit of that act and he must reimburse the Mysore Railways who have contracted with the M.S.M. Reference ~~ma~~ is invited to M.S.M.Railway Goods Tariff Part I,pages 111,112 & 113. Mr.H.Rangachar can send the book to you.

I would suggest that the plaint may be arranged to be presented without further delay.

Yours sincerely,

K Rangachar

N.R.Jaya Rao,Esq.,M.A.,LL.B.,
Assistant Secretary,
Law Department,
Bangalore.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, ... *193*....

No. P 1808/Rev 83-34-7 12th September 5
Genl Revs 17

From

General Secretary to the Government of His Highness the Maharaja of Mysore.

To The

The Public Prosecutor,
Shimoga.

Sir,

With reference to the correspondence ending with your letter No.13 dated 19th July 1935, I am directed to forward herewith a fresh draft of the plaint approved by Government in the proposed suit against Mr.Haji Gani Moosa Sait of Shimoga. Further action to institute the suit may now be taken without delay and the matter reported to Government in due course.

The connected records are herewith returned.

I have the honor to be,
Sir,
Your most obedient servant,

Sd/- H.V.Ramaswami.
Ex General Secretary to Govt.

P.T.O.

Memo No. P 1808- Cy 13-f-35

Copy of the foregoing is forwarded with compliments to the Agent, Mysore Railways in continuation of Government Order No.P.2925-27 Law 83-34-2 dated 13th December 1934.

By Order,

For General Secretary to Govt

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*

Draft
83-34

No P 1807 83.
13-9-35 Genl Recd
10

To the P.A. Srinagar

Sir,

With reference to the Correspondence ending with your letter no. 13 d 19.7.35, I am directed to ~~forward~~ herewith a fresh draft of the plaint approved ~~and revised and approved~~ by Govt ~~draft plaint~~ in the proposed Suit against ~~Hon~~ Mr. Hayward Jammi Kour Sait ~~Bahadur~~ of Srinagar, ~~the~~ further action to institute the suit may now be taken without delay ~~and the papers returned herewith~~. The connected records are herewith returned. I have etc

for Secy
PSD
12/9

NDP
12/9

Copy to Asst Reporter in connx of G.O.P 1925-27/Law 83-34 NDP dated 13 Sept 35

the reported abundance.

2644
P 838

19

From

The Public Prosecutor
Shimoga division
Shimoga.

To

The General Secretary to the Govt
of H.H. The Maharaja of Mysore
Bangalore.

Dated 20.10.35

Despatched 20.10.35

Received

General No.

No. 140.

Enclosure No.

GENERAL SECRETARY.
21 OCT. 1935
Pub.

Sir,

Subject:- Suit against
Mr. Haji Sani Moosa Belgamwala
of Shimoga on the file of the
Munsiff Shimoga.

With Reference to your
letter No. P. 1807/Law 87-24-5
dated 12/13th September 193
forwarding a fresh draft
of the plaint approved by
the Government in the
proposed Suit to be filed
against Mr. Haji Sani
Moosa Belgamwala, I have
the honour to state that the

The Suit was filed yesterday i.e on 19-10-1935 in the Court of the Munsiff. Shimoga. Further progress of the case will be Reported from time to time as usual.

I have the honour to be

Your most obedient Servant.

B. Krishna Rao
Public Prosecutor
Shimoga division
20-10-35.

5980
P

19

From

The Public Prosecutor
Shimoga Division

To

Shimoga

The General Secretary to the
Government of Mysore

Dated 26-3-36

Despatched 26-3-36 Bangalore.

Received

General No.

No. 360

Enclosure No. One.

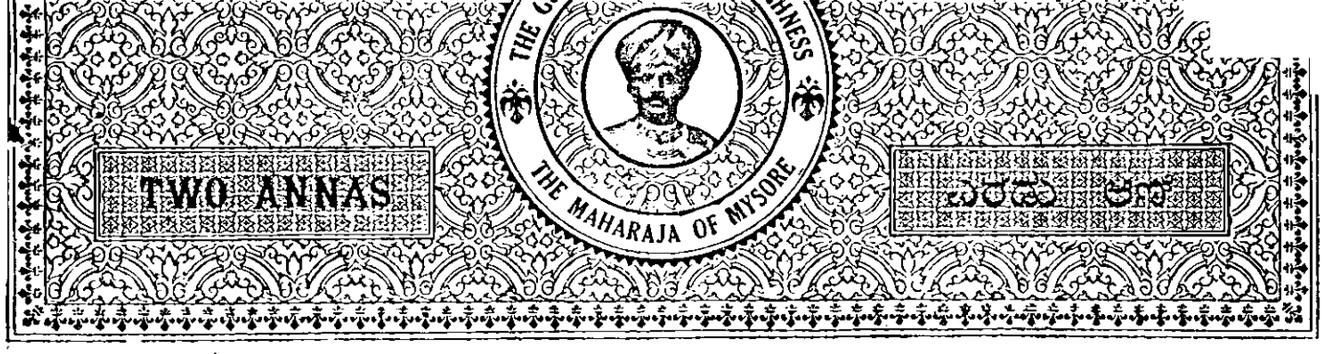
Sir,

Subject:- O.S. 171/35-36 on the file of the Munsiff, Shimoga.

In Continuation of this office No. 345 dated 6-3-1936, I have the honour to forward herewith an authenticated copy of Issues framed in the above case for your kind perusal and Return.

I have the honour to be
Sir,
Your most obedient Servant.

B. Krishna Rao
Public Prosecutor
Shimoga Division



In the Court of the Munsiff at Shimoga

Original Suit No. 171 / 35-36

Plaintiff - Agent and Traffic Manager
Mysore Railways, Mysore

Defendant - Hage Gani Moosa

Issues

Did the defendant get despatched 32 bags of Sugar from Marmugoa Harbour to Harnahalli Station as alleged in the Plaint ?

Did Virupanna receive the Same at Harnahalli ? Is That Virupanna an agent of the defendant ?

Are goods imported into British India and booked Via Castle Rock Station to all Stations on The M. S. M and Mysore Railways liable to pay customs duty to the

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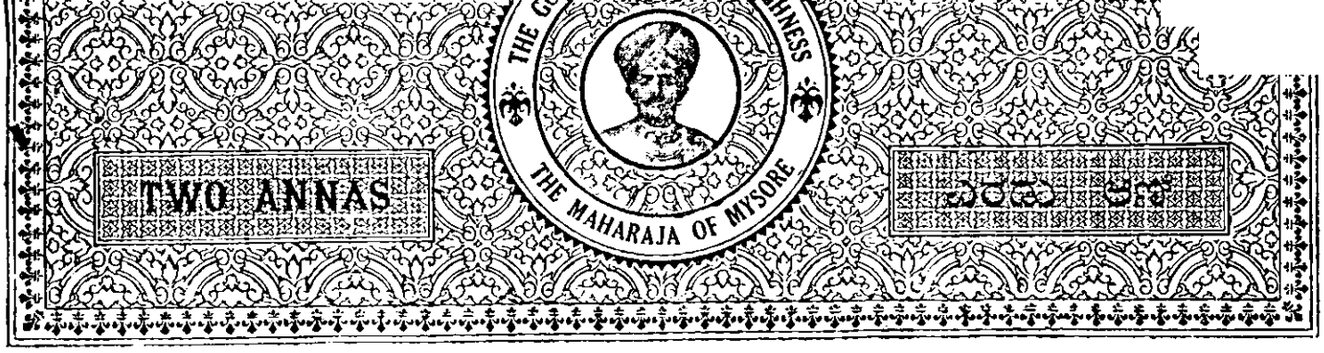
Copy ready on the	Copy delivered on the	Copied by	Examined by



The British Government ? If so how much

Has the Station master at Castle

Rock paid Rs 572-10-0 as customs duty

for these goods ?

Has this amount been paid to the

M. S. M. Railway by the plaintiffs for the

benefit of the defendant

Is the Suit barred by time

Is the defendant not properly repre-

sented in this Suit ?

Has the agent, Mysore Railways,

no right to Sign the Plaint on

behalf of the Government ?

To what relief, if any, is the Plain-

tiff entitled to ?

(d) K.U.S.R.

Munsiff

5-3-36

Copy/

draft

(ad munshi

MUNSIFF'S COURT
SHIMOGA

Copy applied for on the	Applicant told to appear on the	Applicant appeared on the	Copying stopped for want of copying sheets on the	Additional copying sheets supplied on the
9 3/36	11 3/36	11 3/36		

Copy ready on the	Copy delivered on the	Copied by	Examined by
11 3/36	11 3/36	Bsr Gurudachar	[illegible]

GRN

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

P6589

Dated, Bangalore, 2nd April 1936.

rom

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

The Public Prosecutor,
Shimoga.

Sir,

O.S.171/35-36 on the file of the Munsiff, Shimoga.
(Agent Mysore Railways Vs. Hazi Gaini Koosa)

With reference to your letter No.360 dated 26th March 1936 forwarding a copy of the issues framed in the above case, I am directed to request that copies of the plaint, written statement and the reply, may kindly be sent for reference early.

I have the honor to be,
Sir,
Your most obedient servant,

For General Secretary to Govt

Appendix F G—1]

SUBJECT.....

.....

.....

Section Law

File No.

Serial No.

No. P65/89

To

The Pr. Shimoga

05.171/3536 on the file of the

Munsiff Shimoga

(Agent Mgl. Rp vs Hajee Ghani Khan

Sir

With reference to your letter no. 360 dt 26.3.36 forwarding a copy of the issues framed in the above case, I am directed to request that Copies of the plaint written statement and the reply may kindly be sent for reference to

I. Law Secy

Mgl 30/3 Imp Genl Secy

ISD 30/3

No. of letter replied to..... .....

General and Revenue Secretariat

( )

the *193*

issue..... 4.4.36.....

by ..... Mr. M. R. J. .....

List of enclosures.....

Copied by ..... Lin 2/4

Examined by..... .....

WD 03601—GPB—30,000—23-9-35

6199(a)/35-P

Index 6-5-36-GPB

19

From

The Public Prosecutor
Shimoga Division
Shimoga

To

The General Secretary to the
Government of Mysore

Dated 5-6-4-36 Bangalore

Despatched 6-4-36

Received

General No.

No. 391

Enclosure No. one file

GENERAL SECRETARIAT
7 APR 1936

Sir,

Subj:- O.S. 171/35-36 On the file of the Munsiff, Shimoga [Agent, Mysore Railways -vs- Haji Sahib Moosa]

With reference to your letter No. P. 6589 dated 2-4-36, I have the honour to forward herewith the copies of the plaint written statement, reply and the memo of particulars in the above case for your kind reference and return.

I have the honour to be
Sir,
Your most obedient Servant,

B. Krishna Rao
Public Prosecutor
Shimoga Division 5/4

IN THE COURT OF THE MUNSIFF, SHIMOGA.

Original Suit No.171/1935-36.

Government of His Highness the Maharaja of Mysore, by the Agent, Mysore Railways. .. Plaintiff.

Vs.

Haji Ganni Moosa Belgamwala, Musalman, Merchant, Shimoga. Defendant.

Plaint under Order No.7 Rule (1)C.P.C.

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1. The addresses of the parties for the purposes of service of processes are as noted above.

2. The Mysore Railways are a State Owned concern administered by the Agent, Mysore Railways, Mysore. The defendant is a merchant trading and carrying on business at Shimoga.

3. The defendant aoovenamed got despatched a consignment of 32 bags of sugar from Murmagoa Harbour on the W.I.P. Railway to Harnhalli a station situated on the Mysore Railways. The said consignment was addressed "To Self" and despatched under Invoice No.2 dated 27th May 1933. At the destination station of Harnhalli the consignment was delivered on 6th June 1933 to one Virupanna the defendant's Agent who surrendered the concerned Railway Receipt made out in the name of the defendant at the frontier station of Castle Rock of M & S.M.Railway.

4. Marmagoa Harbour lies within the Portuguese territory. Goods imported into India and booked via Castle Rock to all stations on M.S.M. and Mysore Railways are liable to pay at Castle Rock Customs duty to the British Government according to the

rules framed by the M.S.M.Railway. Customs duties on all such consignments are paid to the Government by the Station Master, Castle Rock and the amount thus paid is recovered from the consignee at the station of destination together with the other charges if any due for the carriage of the goods.

5. Accordingly the Station Master at Castle Rock paid the customs duty of Rs572-10-0. But by inadvertence he omitted to note on the suit invoice No.2 dated 27th May 1933 the amount of Rs572-10-0 that had been paid by him in order to pass the goods through Castle Rock station to Harnhalli.

6. The Station Master, Harnhalli, being unaware of the payment of customs duty by the M & S.M.Railway, recovered from the defendant's agent Rs85-11-0 only towards the invoiced freight and delivered the goods to the defendant's agent.

7. Harnhalli station was on that date in charge of a Relieving Station Master who released the goods without observing the strict rules that had to be complied with before delivering the goods to the defendant's agent. Subsequently, however, M.S.M.Railway made a claim on the Mysore Railways for the amount of customs duty, viz., Rs572-10-0 and stamp fee As2 paid by the M.S.M.Railway on behalf of the defendant and the Mysore Railways Administration paid the said sum to the M.&.S.M. Railway on 21st March 1934 for and on behalf of the defendant. Thus the liability of the defendant to pay the customs duty was first discharged by the M & S.M.Railway and then by the Mysore Railways for the benefit of the defendant.. The defendant thus became indebted to the plaintiff in the sum of Rs572-12-0 and he is bound to pay same under section 70 of the Indian Contract Act.

8. The defendant was demanded by letter on 15th January 1934 to pay the plaintiff the sum of Rs572-12-0 together with interest thereon 6 per cent per annum. The

defendant has failed to pay as per demand. Hence the suit.

9. Cause of action accrued at Mysore on 21st March 1934 on which date the Plaintiff paid Rs572-12-0 to the M.S.M.Railway. The suit is instituted in this court as the defendant is permanently residing and carrying on business within the jurisdiction of this court.

10. The plaintiff prays for a decree against the defendant for -

1. Customs duty and Stamp Fee paid on behalf of the defendant	..	Rs572-12- 0
2. Interest thereon at 6% per annum from 21st March 1934 to the date of suit.	..	" 51-12- 0
3. Notice charges (3)	..	" 5- 8- 0
Total	..	Rs630- 0- 0

together with cost and current interest.

Court Fee Stamp of Rs63/- is paid on the plaint.

Sd. H. D. Sinclair,
Agent, Mysore Railways.

I, Mr. H. D. Sinclair, Agent, Mysore Railways, do solemnly affirm that the facts stated above are true to the best of my information and belief.

Sd. H. D. Sinclair,
Agent, Mysore Railways.

-- copy --

IN THE COURT OF THE MUNSIFF, SHIMOGA.
O.S.No.171/35-36.

Plaintiff - The Agent, .. Vs. Defendant: Haji Gani Moosa,
Mysore Railways, Merchant,Shimoga.
Mysore.

The plaintiff may kindly be directed to give the following particulars of information that are wanting and left vague in the plaint:-

1. In para 3 of the plaintiff it is not made clear as to who despatched or through whom the defendant got despatched the goods from Marmagoa. The name of the consignor may ordered to be given.

2. In para 4 of the plaint the plaintiff refers in general terms to rules framed by the M & S.M.Railway for recovery of customs duties. Plaintiff may be directed to state those rules specifically i.e., the regulation and section or quote the rules.

3. In para 5 of the plaint, plaintiff says Rs572-10-0 has been paid as custom duty but has not produced for having done so and the same may oe ordered to be produced and the date of payment by the Station Master at Castle-Rock given.

4. In para 7 of the plaint a vague reference is made (to) certain rules, which have to be observed before goods are delivered, what those rules are the plaintiff may be directed to state definitely by reference to specific rule or the regulation and section replied on.

5. In the same para plaintiff refers to a claim made by the M & S.M.Railway on Mysore Railways and the payment oy the letter. Both the claim by M & S.M. and the receipt obtained oy the latter may kindly ordered to be produced giving the date of demand by the M & S.M.Railway and its nature by producing their letter of demand and the letter of compliance by the plaintiff's railway and the receipt obtained therefor.

Sd. G. S. Iyengar,
Advocate for Defendant,
7-12-1935.

- copy -

IN THE COURT OF THE MUNSIFF, SHIMOGA

O.S.No.171/35-36.

Plaintiff:- The Agent, Mysore Railways

Vs.

Defendant:- Haji Gani Moosa Belgamwala.

Plaintiff's reply to the memo of particulars called for by the defendant.

1. The name of consignor is Dawood Gani Hussain.

2. The rules framed by the M & S.M.Railway regarding the payment of the customs dues at Castle-Rock are to be found in para 5 at page 110 of No.6 Goods Tariff Part I issued by M & S. M. Railway and the particular rules are to be found at page 112 (vide para 5 (2) (b) 1 to IV).

3. It is a matter of evidence and the reference cannot be produced now.

4. The Rule referred to is to be found at page 112 (vide para 5 (2) (b) V).

5. The claim and the receipt are matters of evidence and they cannot be now produced.

-copy-

IN THE COURT OF THE MUNSIFF, SHIMOGA

Original Suit No.171 of 35-36.

Date of Order 4th Jany.36.

Present: K.V.Shama Rao Esq., B.A.,LL.B., Munsiff

Plaintiff: The Government of His Highness the Maharaja of Mysore, by the Agent, Mysore Railways.

Defendant: Haji Gani Moosa Belgamawala, Merchant, Shimoga.

This is a suit for the recovery of Rs630/ being the custom duty paid by the plaintiff to the M & S.M. Railway in connection with sugar consignment delivered to the defendant and the court pronounced the following order:-

O R D E R

The plaintiff has not given required particulars nor has he produced the several letters referred to by him. The plaintiff must furnish the particulars called for in para 3 and 5 of the memo of particulars filed by the defendant on 6th December 1935. He cannot evade answering necessary particulars as without them the defendant cannot be called upon to meet the plaintiff's case. Let all the particulars be given and the necessary records be produced by 13th January 1936.

(Intd.) K.V.S.R.,
Munsiff, 4-1-1936.

-copy-

IN THE COURT OF THE MUNSIFF, SHIMOGA
Original Suite No.171/35-36.

Plaintiff - Government of Mysore

Vs.

Defendant - Haji Gani Moosa.

Further reply re- the memo of particulars called for by the defendant.

(1) As regards the date of payment of customs dues by the station master at Castle-Rock to the M.S.M.Railway Co., and the production of paper re- such payment it is submitted that the file of railway records which is with the plaintiff's Counsel does not disclose the date of payment and also any receipt obtained in token of such payment.

(2) On the information available it is understood that the payment is not made in cash and any receipt obtained but that the customs charges are paid by the station master of Castle-Rock to the Customs Manager, by a cheque on the Chief Auditor and account of the M.S.M.Railways who later on looks for the credit from railways delivering the goods traffic so that the fact of payment and its date by the station master of Castle-Rock is a matter of proof by the summoning of records from and the examination of the station master of Castle-Rock.

(3) As regards the particulars and documents referred to in para 5 the file of papers which is available with the undersigned does not contain the original letter of claim made by the M.S.M.Railway Co., on the Mysore Railway and the compliance letter of the latter railway.

(4) On the information available it is understood that the Chief Auditor and Accountant of the M.S.M. Railways sends to the Auditor of the Mysore Railways what is called debit and credit extract debiting the amount to the Mysore Railways with regard to their mutual dealings and that the latter makes payment by book adjustment i.e., by crediting the payment in favour of M.S.M.Railway so that the fact of payment by the Mysore Railways

and its date seem to be matters of evidence by the production of records from the office of Chief Auditor, Mysore Railways and his examination.

(5) However, the copies of memo of particulars, the replies made thereo on behalf of the plaintiff and the orders of the court are being sent to the Government for furnishing furtner information and papers which may be availaole in the matter and the same will be furnished to the court soon after the receipt of a reply from the Government. And the forwarding Note issued by the station master of Marmagoa is herewith produced.

(6) It is expedient that the defendant should be called upon to file his defence on the materials now available before the court.

(Sd) B.Krishna Rao,
Govt.Pleader and Advocate for
Plaintiff.
13-1-36.

IN THE COURT OF THE MUNSIFF, SHIMOGA

O.S.171/35-36.

Plaintiff: Government of H.H. the Maharaja of Mysore by the Agent, Mysore Railways, Mysore. Vs. Defendant: Haji Musa Belgamawala, Merchant, Shimoga.

Under O.VIII R.I. defendant begs to submit as follows by way of defence to plaintiff's suit:

1. This defendant is not aware and does not admit the truth of the allegations contained in para of the plaint concerning the Mysore Railways. He further denies that the suit as brought is maintainable and that he is a merchant trading at Shimoga. The defendant Haji Gani Musa Belgamwala in the case is a resident of Bantva, Bombay Presidency, and no summons have been taken to, or served on him, the suit cannot proceed without the same being done. This defendant is a trading at Shimoga and other places and Rahimtulla Sait is its power-of-attorney holder.

2. The defendant Haji Gani Moosa Belgamwala did not get despatched a consignment of 32 bags of sugar from Marmagoa harbour to Havenahalli and he does not admit and is not aware of the other allegations contained in para 3 of the plaint and puts the plaintiff to strict proof of the same. He further denies that one Virupanna was his agent at Havenalli.

3. This defendant is not aware of any one of the allegations contained in para 4 of the plaint. He does not admit any one of them and puts the plaintiff to full and complete proof of them all.

4. This defendant denies that the station master at Castle-Rock had to pay any amount as customs duty and was paid customs duty of Rs572-10-0 and that by inadvertance he omitted to note on the suit invoice the amount so paid. Though called for and ordered by the court to produce the necessary documents in that matter the plaintiff has not done so and not even the date of payment is given making the whole claim vague and indefinite and in the absence of a definite statement and non-production of

necessary documents by the plaintiff in this matter there is no data to court to hold that the suit is in time and the same as such has to be dismissed with costs, more especially when the plaintiff admits that he is not aware of the date of payment nor that he has any receipt therefor.

5. This defendant is not aware of any one of the allegations made in paras 6 and 7 of the plaint He does not admit them and puts the plaintiff to strict proof of all of them. This defendant further denies that they had any agent at Havenahalli and that anything was recovered from their said agent or any goods were delivered to him witnout observing rules. This defendant further denies that there was any claim from the M.S.M.Railways on the Mysore Railways for Rs572-12-0, that the said Railways had to pay or have paid lawfully any amount on behalf of this defendant and that the Mysore Railways had to pay or have lawfully paid any amount for and on behalf of this defendant. Either of them could not act as agents of the defendant and had no authority to do so. If any payment has been made or any act done it is done voluntarily and there was no need by them to have paid or acted in the manner alleged It is, if at all, an invalid and void act. The plaintiff has admitted that he does not possess any letter of claim by the M.S.M.Railways or any letter of compliance by the Mysore Railways. This defendant denies that there was any liability on him to pay customs duty or that anything has been paid by any one for his benefit or that he has derived any benefit even if the alleged payment be true. This defendant is not liable and is not indeoted to the plaintiff in any sum under Sec.70 of the Indian Contract Act or any other law. Even according to the plea of the plaintiff the defendant Haji Gani Moosa Belgamawala cannot be said to have been benefitted and he was not bound to pay and there has been no lawful payment made to save the property and as such the suit is not maintainable in the form brought and the defendant was not consulted and demanded to pay by either of the Railways before paying the sum.

6. It is false any demand was made of the Defendant by the Plaintiff on 15th January 1934 as alleged in para8of the plaint.

7. There is no cause of action against the defendant. The cause of action is not correctly given and the suit is barred by time. It is false that the cause of action arose on 21st March 1934.

8. The suit is, as brought, not maintainable under the law and the person signing the plaint has no power to represent the Government and the suit is therefore liable to be dismissed with costs.

9. The suit is bad for misjoinder and nonjoinder parties and causes of action.

10. The reply to the memo is very vague and the defendant prays that he may be given any opportunity to file his additional statement after the necessary particulars are given and the documents produced. All that is stated in the plaint and memo of particulars contrary to and inconsistent with this written statement are false. For all these reasons it is prayed that the plaintiff's suit may be dismissed with costs of this defendant.

IN THE COURT OF THE MUNSIFF, SHIMOGA
O. S. No.171/35-36

Plaintiff:	Vs.	Defendant.
Government of Mysore Railways the Agent, Mysore Railways.		Haji Gani Musa Balagamwala, Merchant, Shimoga.

Reply statement filed on behalf of the plaintiff:-

1. The contentions found in para 1 of the defendant's written statement that the suit is not maintainable and that it can proceed without taking the summons to the defendant's native place of Bantwa are untenable. The suit summonses have been properly taken to his place of business and the procedure adopted is appropriate.

2. As regards the contentions put forward in para 2 of the written statement, the plaintiff reasserts that the truth of the allegations made in para 3 of the plaintiff and avers that the defendant got despatched 32 bags of sugar from Marmagoa to Harnahalli. He further asserts that the railway receipt was surrendered by one Virupanna who represented himseld to be the agent of the defendant and the goods were therefore delivered to him on his assurance and on the bonafide belief of his being the defendant's agent since he produced the railway receipt made out in the name of the defendant.

3. The facts mentioned in para 4 of the plaint are too well known to all the importing traders and as the said information is published in the goods Tariff of the M & S.M.Railway Company which is available to one and all, the defendant cannot ignore the same and he must be deemed to have got despatched the goods, subject to the conditions noted therein.

4. The plaintiff contraverts the denials made by the defendantx in para 4 of his written statement and reasserts the truth of the allegations made in para 5 of the plaint.

5. The plaintiff similarly contraverts the denials made by the defendant in para 5 of his written statement and reasserts the truth of the fact mentioned in paras 6 and 7 of the plaint. He further states that the customs duty of Rs572-12-0 which was due tc the British Government at Castle-Rock on the consignment

had to be paid on behalf of the consignee before the goods could be booked on the M & S.M.Railway under the rules in vogue and as the said payment was made on behalf of the consignee under an implied undertaking to repay the same at the station of destination in which the goods had to be delivered on payment of the said duty paid for at Castle Rock, the first act of payment by the M & S.M.Railway at Castle-Rock was not a voluntary and invalid payment. And as the M & S.M. who made the said payment on behalf of the defendant laid a claim for the same on the Mysore Railways who had to recover the same from the consignee at the destination station before the delivery, the payment of the said amount to the former railway to the latter railway is not a voluntary payment and as the defendant has been benefited the payments he is liable under Sec.70 of the Contract Act to the Mysore Railways. It is further asserted that neither the M & S.M. Railways nor the Mysore Railways were under any obligations to consult the defendant before paying the customs charges levied on the consignment in question.

6. The demand dated 15th January 1934 mentioned in para 8 of the plaint is true and correct.

7. The cause of action and the date of its accrual are correctly mentioned in the plaint. The suit is within time and is not barred by limitations.

8. The suit is maintainable in the form in which it is brought in this court and the plaint is signed by the person duly authorised by the Government to do so.

9. The suit is not bad for misjoinder and nonjoinder of parties and causes of action.

10. The allegations found in the written statement and which are contrary to the plaint and to this reply statement are all untenable and untrue.

Wherefore it is prayed that the suit may be decreed with case.

Agent,Mysore Railways.

I Mr. H. D. Sinclaid, Agent, Mysore Railways, do solemnly affirm that the facts stated above are true to the best of information and belief based on the available records.

Agent, Mysore Railways.

-- copy--

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 6942/Secretariat, Dated, Bangalore, 20th April 1936.

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,
S h i m o g a.

Sir, O.S.171/35-36 on the file of the Munsiff, Shimoga (Agent, Mysore Railways Vs.Haji Ganni Moos.

I am directed to return herewith the copies of the plaint, written statement and other pleadings, sent with your letter No.391 dated 6th April 1936.

I have the honour to be,
Sir
Your most obedient servant,

For General Secretary to Government.

TSS.

Appendix F G—1]

SUBJECT.....

.....

.....

Section Law

File No.

Serial No.

Diary No. of letter replied to.....

No. P6942/Suc 608 dec 6

To The Br. Shimoga

General and Revenue Secretariat

( )

the *193*

OS 171/35-36 on the file of the Munsiff. Shimoga

(Agent Mys. Govt. in Hajee Gani Hamid)

Date of issue 21.4.36

Sir,

I am directed to return herewith the copies of the plaint written statement and other pleadings sent with your letter no. 391 dt 6.4.36

I have the honour to be Sir Your most obedient servant

17/4

for Secretary

17/4

List of enclosures.....

Copied by .....

Examined by.....

WD 03601—GPB—30,000—23-9-35

F

473/36

OFFICE OF THE PUBLIC PROSECUTOR,

No. 35

....Shimoga....DIVISION,

Enc.

DISTRICT OFFICE BUILDINGS.

Dated 17th July ..... 1936.

18th

FROM

8 & 9

To

The General Secretary to the Government of

GENERAL SECRETARIAT 20 JULY 1936

Mysore, Law Section Bangalore.

SIR,

Subject :— O. S. No. 171/35-36 (The Traffic Manager, Mysore Railways Vs Mr. Haji Sami Hossa) on the file of the Munsiff, Shimoga.

6 Noted Sd. for perusal

I have the honor to state that the above case has been adjourned to 23rd July 1936 for filing objections to the application filed by the defendant. Copy is herewith submitted for kind perusal and return

N. B One witness on behalf The plaintiff was Examined. (PW2 Mr. M. N. Murthy, Clerk, Audit office, Mysore)

I have the honor to be,
Sir,
Your most obedient servant,

R. Krishna Rao
Public Prosecutor
18.7.36

WI 01551—GPS—300—5-5-32

IN THE COURT OF THE MUNSIFF OF SHIMOGA.

O.S.No:171 of 35-36.

Plaintiff:		Defendent:
(Govt- by Agent, Mysore Railways)	Vs	Haji Gani Moosa, Merchant, Shimoga.

Under O 14 Rule 5 and sections 94 and 151 C.P.C. the defendent begs to submit as - follows:-

1) The issues framed in the case, the defendent submits do not exhaustively bring out the point of contention between the parties in the following particulars.

2. The second issue in the case has to be modified in view of the altered position taken up by the plaintiff with regard to Virupannas action.

3. The plea regarding misjoinder and non-joinder urged by the defendent has not been made the subject matter of an issue.

4. That in view of the pleadings this issue is important and has to be decided before the evidence is taken up.

5. That the latter portion of the second issue "Is that Verupanna and agent of the defendent" has to be modified, in view of the allegations in para 2 of the reply statement, viz "Did virupanna represent himself to be an agent of the defendent and is the

defendent bound by that representation".

6. That the 5th issue has also to be altered and the plea whether the plaintiff lawfully made payment and also paid the amount volantarily has to be incorporated in the issue.

7. That the 7th issue in the case has also to be made clear in virtue of the pleadings namely the plaintiff has sued Haji Gani Moosa personally. The defendent contends that the service is made on a firm.

8. The defendent submits that issue No. 7 may be modified into whether the suit filed against Haji Gani Moosa as an individual could be continued by serving the firm Haji Gani Moosa which is solely owned by Hasham Haji Gani.

The defendent prays that in the interest of justice this Hon'ble court may be pleased to frame the new issues and alter the existing ones before proceeding further and direct that the issue regarding mis-joinder, and non-joinder be decided in the first instance.

OFFICE OF THE PUBLIC PROSECUTOR,
...Shimoga...DIVISION,
DISTRICT OFFICE BUILDINGS.

Enc.

Dated 16th July 1936.
18th

FROM

The Public Prosecutor,
.....Shimoga...Division,
.....Shimoga.....

RECEIVED
20 JULY 1936

To

The General Secretary to the Government
of Mysore, Law Section Bangalore.

SIR,

Subject :— O.S. No. 171/35-36 (The Traffic Manager, Mysore Railways Vs Mr Haji Gani Moosa Belgaumwala) on the file of the Hon'ble H. Shimoga

I have the honor to state that the above case has been adjourned to ...17th July 1936 for further Evidence.....as the.....

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P765 Law 83-36-10
Secl.

Dated, Bangalore, 27th July *1936*
28

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,
Shimoga.

Sir,

With reference to your progress report No.35, dated 17/18th July in O.S.No.171/35-36 (The Traffic Manager, Mysore Railways VS Haji Gani Moosa) on the file of the Munsiff, Shimoga, forwarding a copy of the application filed by the defendent in the above, I am directed to return the copy as requested and to state that copies of all applications and statements filed and issues framed or amended have to be sent for reference here. This is an important case on behalf of the Railways and seems to involve some difficult questions of fact and law and it is hoped that you are taking necessary action to bring the case to a successful termination.

I have the honour to be,

Sir,

Your most obedient servant,

General Secretary to Government.

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue 28-7-36

Signed by Hn - N - R - J.

copies of application to be typed.

List of enclosures.....

Copied by .....

Examined by.....

Section Law

File No. 83—34

Serial No. 10

No. P 765/Sec.

To

The P. P. Shimoga.

Sir,

With reference to your progress report No 35 dated 17th/18 in O. S. No. 171/35-36 (The Traffic Manager, Mys Rys & Haji Gaffi Hussain) on the file of the Munsiff, Shimoga, forwarding a copy of the application ~~to be~~ filed by the deft in the above case I am directed to return the copy as requested ~~application with the request~~ and to state that

~~Kindly~~ have the ~~send~~ copies of all applns and objection statements ~~as soon as they are~~ filed. & issues framed or amended ~~have the~~ have to be sent for reference here.

~~For Secretary.~~

This is an important case
on behalf of the Railways & seems
to involve some difficult questions
of fact & law and it is hoped
that you are ~~having~~ taking ~~all~~
~~reasonable~~ necessary action
to bring the case to a successful
termination

Yours etc

PPP

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 2908 Dated, Bangalore, 3rd November 1936.

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,
Shimoga.

Sir, O.S.171/35-36 on the file of the Munsiff, Shimoga (The Traffic Manager, Mysore Railways Vs.Hajee Gaffi Moosa).

With reference to your Progress Report No.145 dated 25-26th September 1936 stating that the copies of order amending the issues of pleadings and applications will be obtained and forwarded for reference, I am directed to state that they have not yet been received and to request you to send the same at an early date.

I have the honour to be,
Sir,
Your most obedient servant,

For General Secretary to Government.

Appendix F G—1]

UBJECT.....

.....

.....

iry No. of letter replied to..... .....

General and Revenue Secretariat

( )

the *193*

Date of issue 4.11.36

Signed by Mr. A.S.R

List of enclosures.....

Copied by Cw 9/11

Examined by.....

Section Rev

File No. 83 - 34

Serial No.

No. P2908

To

The P. Pr, Shimoga

O.S. 171/35-36 on the file of the Mensiff - Shimoga

(The Traffic Manager Mys: Rys: Vs Hajee Gaki Moosa.)

Sir,

With reference to your Progress Report no 145, dated 25-26th Septr '36 stating that the Copies of order amending the issues of pleadings, and applications will be obtained and forwarded for Reference, I am directed to state that they have not yet been received, and

to request you to send the
same at an early date

I have etc

PPR
3/10
for Gen'l Secy

S 210 136
P

WD 03342—GPB—50,000—18-7-35

193

From

The Public prosecutor
Shimoga Division
Shimoga.

To

The General Secretary to the
Government of Mysore,
Bangalore.

Dated 5-3-37

Despatched 5. 3. 37.

Received

General No.

No. 417.

Enclosure No.

GENERAL SECRETARY
8 MAR 1937

Sir,

Subject:- O.S. No. 171/35-36 [Traffic Manager, Mysore Rys Vs. Haji Sahi Hoosa] on the file of the Munsiff, Shimoga

In Continuation of my letter No. 391 dated 13. 2. 1937 reporting that the above suit has been adjourned to 4th March 1937 I have the honour to state that the above case has been now posted to 18th March 1937 as the Advocate for defendant filed an application and got the case adjourned

adjourned on account of his personal in-

Convenience

I have the honour to be
Sir,
Your most obedient Servant

Public Prosecutor
Shimoga Division.

Submitted.

12/3

12.3.

12.3.77

No. 201

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
Shimoga ..... DIVISION,
DISTRICT OFFICE BUILDINGS.
Dated 2nd November *1936*

The Public Prosecutor,
Shimoga Division,
Shimoga.

SECRETARY
NOV 1936

The General Secretary to the Government of Mysore Law Section, Bangalore

Subject:— O.S. No. 111/0 5-36 (Mysore Railway vs. Haji Sabi Kooba) on the file of the Munsiff. Shimoga.

I have the honor to state that the above case has been adjourned to 15th January 1937 for further Evidence.

1997/936

Perusal.

30/9/36

OFFICE OF THE PUBLIC PROSECUTOR,
.....Shimoga..... DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 25th September 1936.

FROM

The Public Prosecutor,
28 SEP 1936
.....Shimoga.....*Division,*
.....for.....Shimoga.....

To

The General Secretary to the Government of
Mysore. Law Section, Bangalore

SIR.

Subject:— O.S. No 171/35-36 (Traffic Manager Mysore Railways to Mr Haji Sooni Koosa Belgaumi on the file of the Munsiff Shimoga.

I have the honor to state that the above case has been adjourned 2nd November 1936 for further Evidence as

.....

Orders have passed allowing application filed by the deft re: the amendment of issues. Copy of order will be obtained and submitted for kind perusal along with the copies of pleadings and applications filed in the case as desired in your No. P 765 Law 83-36-10 dated 27th July 1936.

I have the honor to be,
Sir,
Your most obedient servant,
B. Krishna Rao
Public Prosecutor.

WD 02100—900—27.2.36

1227/1936

OFFICE OF THE PUBLIC PROSECUTOR,
.....Shimoga..... DIVISION,
DISTRICT OFFICE BUILDINGS.

Enc.

Dated 20th August 1936.

26

The Public Prosecutor,
.....Shimoga.....Division,
.....Shimoga.....

25 AUG. 1936

The General Secretary to the Government of Mysore, Law Section Bangalore.

SIR,

Subject:— S.S. No 171/35-36 (Traffic Manager, Mysore Railways Vs Mr. Haji Sabi Hoosa) on the file of the Munsiff. Shimoga.

I have the honor to state that the above case has been adjourned to 21-8-36 for Orders on memo in the history as applied for by the Warrant is Amendment of

1226/36

OFFICE OF THE PUBLIC PROSECUTOR,
.....Shimoga..... DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 18th August 1936
26

The Public Prosecutor,
5 AUG. 1936 *Shimoga Division,*
.....Shimoga.....

The General Secretary to the Government of Mysore, Law Section, Bangalore.

Subject:— O.S. 171/1935-36 (The Traffic Manager Mr. Haji Saab Hoosa) on the file of the Munsiff, Shimoga.

I have the honor to state that the above case has been adjourned 2.9.-8.-36. for arguments..... as the undersigned was engaged in Shimoga Sessions before The Additional Sessions Court, Shimoga.

I have the honor to be,

Progress Report for 17-8-36

1225 P 936

OFFICE OF THE PUBLIC PROSECUTOR,
....Shimoga..... DIVISION,
DISTRICT OFFICE BUILDINGS.
Dated..17th August.....1936.
18th

25 AUG. 1936

To
The Public Prosecutor,
.....Shimoga.....Division,
.....Shimoga.....

The General Secretary to the Government of Mysore. Law Section, Bangalore

Subject:— C.S. No. 171/1935-36 (Traffic Manager & Mr. Haji Sahi Hasan) On the file of the Munsiff, Shimoga.

I have the honor to state that the above case has been adjourned to 7th August 1936 for arguments as the undersigned was engaged in Sessions before Assistant Sessions Court.

I have the honor to be,
Sir,
Your most obedient servant,

B. Krishna Rao
Public Prosecutor.

1224 p. 836

OFFICE OF THE PUBLIC PROSECUTOR,

.....Shimoga... DIVISION,

DISTRICT OFFICE BUILDINGS.

Dated. 12 - 8 - *1936.*

24

To *The Public Prosecutor,*

.....Shimoga..... *Division,*

Shimoga

25 AUG. 1936

The General Secretary to the Government

of Mysore Law Section, Bangalore.

Sir,

Subject:— O. S. No. 171 of 1935-36.

(Traffic Manager, Mysore Railways. Vs Mr. Haji Gani Moosa Belgamwal on the file of the Munsiff, Shimoga.

I have the honor to state that the above case has been adjourned to 12-8-36 for argument as the undersigned was engaged in Shimoga Sessions before the Assistant Sessions Court, Shimoga.

I have the honor to be,

Sir,

Your most obedient servant,

B. [illegible]

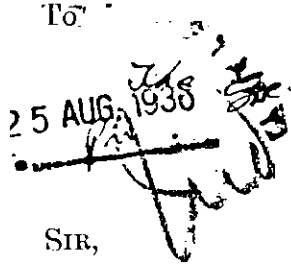
Public Prosecutor.

The Public Prosecutor,

.....Shimoga.....Division,

.....Shimoga

To



The General Secretary to the Government of Mysore; Law Section, Bangalore.

SIR,

Subject:— O.S. No 171 of 35-36 (Traffic Manager Mysore Railways & Mr Haji Sahib Mohsin) on the file of the Munsiff, Shimoga.

I have the honor to state that the above case has been adjourned o..13-8-36.....for arguments.....as he..undersigned..was..engaged..in..Kadur..Sessions

The Public Prosecutor,

Shimoga Division,

Shimoga

31 JULY 1936
To

The General Secretary to the Government
of Mysore, Law Section, Bangalore.

O.S. 171/36 26 (Traffic Managers
Mysore Railways Mr. Hazi Gabi Moosa)
On the file of the Munsiff Shimoga

I have the honor to state that the above case has been adjourned
to 7-8-36 for arguments as
the

Plff:- Mysore Railways Vs Deft:- Mr Hargavamurthy.

Objection to the Defendants Application

1. to 3. It is not true that the issues framed in the case do not exhaustively bring out the points of Contentions between the parties

2. Plaintiff has not taken any altered position with respect to Venkapparao's action as his is that Venkapparao is the Agent of the Defendants

It is no doubt true that the Reply Statement contains the allegations that the Railway was surrendered by one Venkapparao who represented himself to be the Agent of the Defendants and the goods were therefore delivered to him on his assurance and on

Statements and again re-iterated in para
That Defendant
any agent at Harohalli and any charges
recovered from the said agent of any goods
were delivered to him without observing
Rules. So that the allegation about the
Sanction of Virupaxa has been made
ation of his Letter of the Railway Receipt
delivery of goods to him
forwarded to the
Defendant so that no mention was not
taken any alleged position with respect
to the action of Virupaxa and it is therefore
un-necessary to answer the 2nd extra
There is no doubt an

any steps to remedy the defects on that score if any, So no issue is necessary on this point and if it is considered necessary it cannot be decided without Recording Evidence

5. It is un-necessary to amend the 5th issue Regarding the lawfulness and Voluntariness of payment in view of the fact that if the Defendant has not been benifilled by the alleged payment it is necessarily Voluntary and not lawful.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P.6326/Law 83 3-4 Dated, Bangalore, 15th May 1935

6

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,

S h i m o g a .

Sir,

With reference to your letter No.335 dated 15th Apr 1935 forwarding a draft plaint in the proposed suit against - Mr. Haji Ganni Moosa, Shimoga, for recovery of the amount due under invoice No.2/29-5-33 Ex-Marmagao Harbour to Harnahalli, I am directed to request you to resubmit the draft plaint duly - revised in accordance with the suggestions made in the note - herewith sent. He enter file of papers sent is herewith returned

I have the honour to be,

Sir,

Your most obedient servant,

for General Secretary to Government.

Re. Civil Suit to be filed in the Court of the Munsiff of Shimoga Against Messrs. Haji Gani Moosa Belgamwala.

---

1. The Government Order under which the Agent, Mysore Railways is authorised to file the suit under Order XXVII Rule 1 C.P.C. may be quoted in the body of the plaint.

2. The word 'delivery' after "to self" in para 2 may be deleted.

3. After 'Castle Rock' in para 3 omit 'did' and change 'pay' into 'paid'. In same para of the plaint it is stated that the customs dues had to be paid to Portuguese Government but it is not so. It was an import duty due to British Government at Castle Rock.

4. Paras 5 & 6. Add after 'under the charge of' a "Relieving Assistant Station Master."

It must be noted that the nature of the claim is a suit for contribution either under Section 69 or Section 70 of the Contract Act. It is difficult to say in the present case how the Mysore Railway Administration was interested in paying the customs duty which the M. & S.M. Railway had paid. The last negligent act in delivering the goods without collecting the customs dues was that of the Mysore Railways Administration.

5. The Mysore Railway being the destination Railway was responsible for the collection of all charges due to other intermediate Railways under the Railway Rules. This circumstance does not constitute the sort of "interest" required under Section 69. The liability of the defendant under Section 70 appears to cover the case. Paras 5 & 6 of the draft plaint require to be so modified as to bring the case under Section 70.

6. Para 8.

As the goods were delivered to the party without collecting the customs duty, it is too late to discuss the question of lien under Section 39 Clause (1) of the Mysore Railways Regulation. The lien was lost by surrender of

of possession through negligence. I think the Railway is entitled to recover the amount under Section 39 Clause 5 of the Mysore Railways Regulation read with Section 55 Clause 5 of the Indian Railways Act. The reference to Section 39 Clause 1 in para 8 of the plaint may be omitted.

7. Para 9.

The cause of action arose in the following manner. The defendant booked his goods through a Railway owned by the Portuguese Government. At Castle Rock, the frontier station, the import duty due to British Government was paid by the M. & S.M. Railway under that Railway Goods Tariff Rule and arranged for the onward despatch of the goods to the destination station. The M. & S.M. Railway was entitled to recover this amount from the consignee. The Mysore Railways as the agents of the M. & S.M. Railway could also recover it from the consignee.

Under Section 70 of the Contract Act the Mysore Railways delivered the goods by mistake. They did not intend to do so gratuitously and the defendant enjoyed the benefit of the goods delivered. Therefore the defendant is liable to pay the cust duty to the plaintiff.

Please refer to A.I.R. 1929 Lahore 737 (Secretary of State Vs Sabharam).

The meaning of the word <u>lawfully</u> in Section 70 is merely <u>bonafide</u>. A.I.R. 1928 Madras 317 (Muthiah Chetty Vs Narayana Chetty).

A.I.R. 1925 Calcutta 1097 (Nagendra Vs Jugal).

A.I.R. 1929 Oudh 14 (Jai Indra Vs Musmuath Dilrai

IN THE COURT OF THE FIRST MUNSIFF,

SHIMOGA.

O.S. No. of 1934-35.

Plaintiff:-

Traffic ~~Manager and Agent~~ Govt of mysore
~~to the~~ Mysore ~~Railways~~. by The Agent, mysore Rails

VS.

Defendant:-

Haji Gani Moosa Belgamwala, aged
Musalman and Merchant, Shimoga.

Plaint under O.I.R. 7 C.P.C.

1. The addresses of the parties for the purpose of service of process are as noted above.

2. The defendant got despatched a consignment of 32 bags of sugar addressed "to self" delivery from Mormugao Harbour on the W.I.P. Railway worked by M.S.M. Railway Co., to Harnahalli, a station situated in the Mysore State Railways, via Birur under Invoice No. 2 dated 27/5/1933 and the goods were received at the station of destination on 4-6-1933 and delivered on 6/6/1933 to one Virupanna, the Agent of the defendant, on his behalf under the Railway receipt collecting the invoiced freight of Rs 85/11/-.

3. Since the M.S.M. Railway Company has undertaken the collections of Customs Duty on all consignments booked via Castle Rock to all stations on M.S.M., Mysore, S.I. and G.I.P. Railways, the Station Master at Castle Rock did pay to the Customs Manager, on behalf of

the Defendant, the Customs charges, due on this consignment to the Portugese Government, which amounted to Rs 572-10-0 and hence the goods were forwarded from Castle Rock station to Harnahalli.

4. But, under the Goods Tariff Rules, the Station Master at Castle Rock should note on the invoices under the column "M.S.M. Railway" proportion of freight, the amount of Customs dues payable, which should be added to the total "To pay" charges and the further procedure he had to observe was to attach the duty receipt to the invoice and to book the said documents without delay under a free service way bill to the station of destination. On arrival at the latter station, its Master has to deliver the goods to the consignee on collection of the Railway receipt, freight charges and Customs duty and hand over to the consignee the Customs Receipt after checking the amount entered on it with the amount entered on the invoice.

5. In this particular consignment, the proper procedure that had to be followed was not observed by the staff at Harnahalli station as it was then under the charge of a Railway Assistant Station Master who seems to have been not well informed.of the Rules and the latter delivered the goods to the Defendant's agents, by oversight, by collecting only the freight charges without the Customs dues, without waiting for the Customs receipt and the Invoice and without making a reference to Castle Rock to ascertain the Customs duty paid by the M. & S.M. Railway on behalf of the Defendant Consignee.

6. Thereafter, the M. & S.M. Railway, however, made a claim on the Mysore State Railway for the

the amount of Customs dues, namely Rs 572/10/- and a stamp fee of annas 2/- paid by M. & S.M. Railway on behalf of the defendant, as a sum which they had undertaken to pay and the Mysore Railway Administration paid the said amount to the M. & S.M. Railway on 21/3/1934 on behalf of the defendant by book adjustment as it was interested in such payment since it was its duty to collect the Customs duty from the consignee before delivery and had failed to do so through the inadvertance of its agent at Harnahalli station. Hence, the defendant is under obligation to reimberse the Plaintiff with the amount so paid by the Mysore Railways on his behalf which he was bound to pay before taking delivery and/which payment he has been benefitted.

7. The defendant was asked to pay the said amount of Rs 572/12/- on 18/1/1934 by means of registered letter from the Plaintiff and has since been served on 3/8/1934 with the notice issued by the Public Prosecutor, Mysore Division, on 1/8/34 in the matter. But the defendant has not sent any reply and has not remitted the amount.

8. The defendant is not relieved of his obligation to pay the amount on account of the mistake committed by the Station Staff of Harnahalli as the Mysore Railway Administration is entitled to a lien for the said amount over goods before delivery under Section 39 Clause (1) of the Mysore Railway Regulation read with S. 55 (1) of the Indian Railway Act and to a suit to recover the same under Section 39 (5) of the Mysore Railway Regulation read with S. 55 Clause (5) of the Indian Railways Act.

9. The cause of action for this suit has arisen within the jurisdiction of this Court after 21/3/1934 when the Mysore Railways paid the said amount to the M. & S.M. Railway by adjustment and after the nonpayment by the defendant inspite of receipt of Notice on 3/8/1934.

10. The Plaintiff is therefore entitled for:-

Customs dues and stamp fee paid on behalf of Defendant.	Rs 572-12-0
Interest thereon at 6 % per annum from 6/6/1933 the date of delivery up-to-date.	60- 0-0
Notice charges.	5- 8-0
Total Rs	638- 4-0

11. For the purpose of Court fees the suit is valued at Rs 638/4/- and a Court fee of Rs 64/- is paid thereon.

12. Plaintiff therefore prays that this Hon'ble Court may be pleased to pass a decree in favour of the Plaintiff for Rs 638/4/- further interest, Court costs and for such other reliefs as to the Court may deem fit in the circumstances of the case.

IN THE COURT OF THE MUNSIFF OF SHIMOGA.

Original Suit No. /1935-36.

Plaintiff:- Government of Mysore, by the Agent, Mysore Railways.

-vs-

Defendant:- Haji Gani Moosa Belgamwala, ~~Major in age~~, Musalman, ~~and~~ Merchant, Shimoga.

PLAINT UNDER O.7. R. I. C.P;C.,

1. The address~~es~~ of the parties for ~~the~~ purpo of service of processes are as noted above.

2. The defendant got despatched a consignment of 32 bags of Sugar addressed "to self" from Marmugao Harbour on the W.I.P. Railway worked by M.S.M. Railway Co., to Harnahalli, a station situate in the Mysore State Railways via Birur under invoice No. 2 dated 27-5-1933 and the said Consignment of goods ~~were~~ was received at the ~~station of~~ destination on 4-6-1933 and ~~were~~ was delivered on 6-6-1933 to one Virupanna, the Agent of the defendant, on his behalf under the Railway receipt collecting the invoiced freight of Rs 85-11-0.

3. ~~Since~~ the M.S.M. Railway Co., has undertaken the collection of customs duty on all consignments imported to British India booked via Castle Rock to all stations on M.S.M. Mysore, S.I. and ~~G.I.P.~~ Railways, the Station Master at Castle Rock paid to the Customs Manager, on behalf of the defendant the import duty, due on this consignment to the British Govt which amounted to Rs 572-10-0 and hence, the goods were forwarded from Castle Rock station to Harnahalli

chargesand the further procedure he had to observe was to attach the duty receipt to the invoice and to book the said documents without delay under a free serving way bill to the station of destination. On arrival at the latter station, its Master has to deliver the goods to the consignee on collection the Railway Receipt, freight charges and customs duty and hand over to the consignee the customs ~~xxxxxxxxxx~~ receipt after checking the amount entered on the invoice.

5. But with regard to this particular consignment the usual procedure that had to be deserved was not adopted at the time of delivery at the Harnahalli station which was then under the charges of ~~xxxx~~ a Releiving Assistant Station Master who seems to have been not well informed of the Rules. The defendant was entitled for the delivery of the goods on their arrival, at Harnahalli Station only on payment of both the invoiced freight and the customs duty. But his freight only without the customs duty and the Relieving Station Master delivered the goods under a mistake to the defendant's agent without collecting the customs duty also. But, later on, the M.S.M. Railway ~~however~~, made a claim on the Mysore State Railway for the amount of customs

nce been served on 3-8-1934 with the notice issued the Public Prosecutor Mysore Division on 1-8-1934 n the matter. But the defendant has, not sent any eply and has not remitted the amount.

The defendant is not relieved of his obligation to pay the amount on account of the mistake committed by the Station staff of Harnahalli as he has been benefitted thereby and the Mysore Railway Administration is entitled for a suit to recover the said amount under Sec 39(5) of the Mysore Railway Regulation read with Sec 55 Cl (5) of the Indian Railways Act and the Govt of Mysore has authorized the Agent, Mysore Railways, to file this suit under O. 27 R. 1 C.P.C., in G.O.No. F. 2325-27 Law 83-34-2 dated 12/13-12-1934.

The plaintiff is therefore entitled for

toms dues and stamp fee paid on behalf of

572-12-0

erest thereon at 6% per annum from

6-1933-the date of delivery

to 6-7-1934 70-0-0

Notice charges. 5-8-0

Total 648-4-0

10. For the purpose of Court fees the suit is valued at ₹ 648-4-0 and a court fee of ₹ 65/- is paid thereon.

Prayer. Plaintiff therefore prays that this Hon'ble Court may be pleased to pass a decree in favour of the plaintiff for ₹ 648-4-0, further interest Court costs and for such other reliefs as to the Court may deem fit in the circumstances of the case.

4745
P 36

OFFICE OF THE PUBLIC PROSECUTOR,
.....Shimoga DIVISION,
DISTRICT OFFICE BUILDINGS.

Enc.

Dated 11th February 1937

13 a.

FROM

The Public Prosecutor,
Shimoga Division,
.....Shimoga.

15 FEB. 1937

To The General Secretary to the Government of Mysore, Law Section, Bangalore.

Subject:— O.S. No 171/35-36 [Mysore Railway vs Haji Sabi Moosa Belgaumwala] on the file of the Munsiff, Shimoga.

I have the honor to state that the above case has been adjourned to 4th March 1937 for further Evidence..... as the.....

B

W M. Subramanyam Assistant Station Master as Examined today.

I have the honor to be,
Sir,
Your most obedient servant,

B Krishna
Public Prosecutor.

WD 02100—900—27-2-36

6
Noted
Submitted for perusal BXR 1-3-37

Sir 1-3-37

F 55 78 935

OFFICE OF THE PUBLIC PROSECUTOR,
Shimoga DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 5th March 1936
6th

A1
FROM
9 MAR 1936 The Public Prosecutor,
Shimoga Division,
Shimoga

To
The General Secretary to the Government
of Mysore, Law Section
Bangalore.

SIR,

Subject :— O.S. No. 171/1935-36 (Agent Mysore Railways & Hr Haji Sahi Mooso) on the file of the Munsiff Shimoga

I have the honor to state that the above case has been adjourned to 16th July for Evidence as the

No. 338

Enc.

OFFICE OF THE PUBLIC PROSECUTOR,
....Shimoga....DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 24th February ... *1936*

FROM

The Public Prosecutor,
.....Shimoga.....Division,
.....Shimoga.....

To

The General Secretary to the Government
of Mysore Law Section
Bangalore.

SIR,

Subject :— O.S No 171/35-36 (The Agent Mysore Railways Vs Mr Haji Gani Hooda) On the file of the Munsiff Shimoga.

I have the honor to state that the above case has been adjourned to ...5th March 1936 for ~~for~~ examination of witnesses on the.....

Statement of Reply was filed

I have the honor to be,
Sir,
Your most obedient servant,

B Krishnaiah
Public Prosecutor.

Camp Chitradurga 2/3/36

WD 61551—GPB—900—5-5-32

F

S219/35
P

OFFICE OF THE PUBLIC PROSECUTOR,
Shimoga DIVISION,
DISTRICT OFFICE BUILDINGS.

No. 331

Enc.

Dated 17th February 1936.
18th

FROM

The Public Prosecutor,
Shimoga Division,
Shimoga

To

The General Secretary to the Government
of Mysore Law Section
Bangalore

SIR,

Subject :— O.S. No. 171 of 35-36 (The Agent Mysore Railways & HS Ho. Haji Sami Mooda on the file of the Munsiff, Shimoga.

I have the honor to state that the above case has been adjourned to 24th February 1936 for filing Reply to the written Statement filed by the Defendant.

I have the honor to be,
Sir,
Your most obedient servant,

B. Krishna Rao
Public Prosecutor.

WD 01551—GPB—900—5-5-32

No.

Enc.

FROM

The Public Prosecutor

Shimoga Division,

11 NOV. 1935

Shimoga.

To

The General Secretary to the Government of
His Highness the Maharaja of Mysore
Law Section, Bangalore

SIR,

Subject :— O S. No 171/35 36 (Agent, Mysore Railway S H Mr. Hayagan Sami Moosa) on the file of the Munsiff, Shimoga

I have the honor to state that the above case has been adjourned to ... 6th December 1935 for services of the ~~Summons~~ to the Defendant

I have the honor to be,
Sir,
Your most obedient servant,

B. Krishna Rao
Public Prosecutor.

WD 01551—GPB—900—5-5-32

FROM

The Public Prosecutor,

.....Shimoga Division,

3 Nov 35 .....Shimoga.....

To

The General Secretary to the Government of
His Highness the Maharaja of Mysore
Law Section Bangalore.

SIR,

Subject :— O.S. No 171/35-36 (Agent Mysore Railways-vs Haji Sami Moosa Belgaum) on the file of the Munsiff, Shimoga

I have the honor to state that the above case has been ~~adjourned~~ posted to 7th November 1935 for final as the hearing i.e. Return of summons to the defendant.

No.

Enc.

FROM

The Public Prosecutor,
Shimoga Division,
Shimoga.

GENERAL SECRETARY 25 MAY 1937

To

The General Secretary to the Government of
Mysore, Law Section Bangalore

SIR,

Subject:— S.S. No 171/35-36 (Mysore Railways vs
Haji Gani Hoosa Belgaumwala) on
the file of the Munsiff, Shimoga

I have the honor to state that the above case has been adjourned to 3rd June 1937 for further Enquiries as the undersigned was engaged in Sessions at Camp Chitaldurg.

Noted
Obd for perusal.

D 02100—900—27-2-36

WD 03342—GPB—50,000—18-7-35

Law 83-34-11

193

From

The Public Prosecutor
Shimoga Division
Shimoga.

To

The General Secretary to the
Government of Mysore
Bangalore

Dated 23. 5. 37

Despatched 23-5-37)

Received

General No.

No. S 30

Enclosure No. Two.

GENERAL CIVIL DEPT.
25 MAY 1937

Sir,

Subject:- O.S. No. 171/35-36

[Traffic Manager, Mysore Railways Vs. Haji Sami Mood Belyanewala] on the file of the Munsiff Shimoga

In Continuation of my letter No. 165 dated 26-9-1936 Reporting that the application filed by the defendant for the amendment of issues, has been allowed, I have the honour to Submit herewith copy of the application filed by the defendant together with the authenticated Copy of order passed on 25-9-36

On the said application and of the Additional Issues framed in the above case as desired in your letter no. 765 Law 83-3010. dated 27/28 th July 1936 for kind perusal

The Munsiff has framed an additional issue No. 10 whether the Suit is bad for Non-joinder of parties and this he has apparently done on the ground that in the pleadings there has been an averment that Virupakka and Madras and Southern Mahatta Railway are necessary parties and the Suit is bad for non-joinder of them. But a perusal of the defendants' written statement Convinces That So Such Specific allegation is made and the Munsiff has found Speculative ground for framing this issue

I have the honour to be
Sir,
Your most obedient Servant.

B. Krishna. Rao
Public prosecutor
Shimoga Division
23/5/37

IN THE COURT OF THE MUNSIFF OF SHIMOGA.

O.S.No.: 171 of 35-36.

Plaintiff:		Defendent:
(Govt-by Agent, Mysore Railways)	Vs	Haji Gani Moosa, Merchant, Shimoga.

Under O 14 Rule 5 and sections 94 and 151 C.P.C. the defendent begs to submit as follows:-

1) The issues framed in the case, the defendent submits do not exhaustively bring out the point of contention between the parties in the following particulars.

2. The second issue in the case has to be modifie in view of the altered position taken up by the plaintiff with regard to Virupannas action.

3. The plea regarding misjoinder and non-joinder urged by the defendent has not been made the subject matter of an ~~x~~ issue.

4. That in view of the pleadings this issue is important and has to be decided before the evidence is taken up.

5. That the latter portion of the second issue "Is that Verupanna an agent of the defendent" has to be modified, in view of the allegations in para 2 of the reply statement, into "Did virupanna represent himself to be an agent of the defendent and is the defendent bound by that representation".

6. That the 5th issue has also to be altered and the plea whether the plaintiff lawfully made payment and also paid the amount voluntarily has to be incorporated in the issue.

7. That the 7th issue in the case has also to be made clear in virtue of the pleadings namely the plaintiff has sued Haji Gani Moosa personally.

The defendent submits that issue No.7 may be modified into whether the suit filed against Haji Gani Moosa as an individual could be continued by serving the firm Haji Gani Moosa which is solely owned by Hasham Haji Gani

The defendent prays that in the interest ~~aff~~ of justice this Hon'ble court may be pleased to frame the new issues and alter the existing ones before proceeding further and direct that the issue regarding misjoinder and non-joinder be decided in the first instance.

'Copy'

For General Secretary to Govt.

27/7

In the Court of the Munsiff of Shimoga

Original suit No 171/35-36

Date of order 25-9-36

Present:- K. Habibullakhan Esqr B.A

B.L. Munsiff

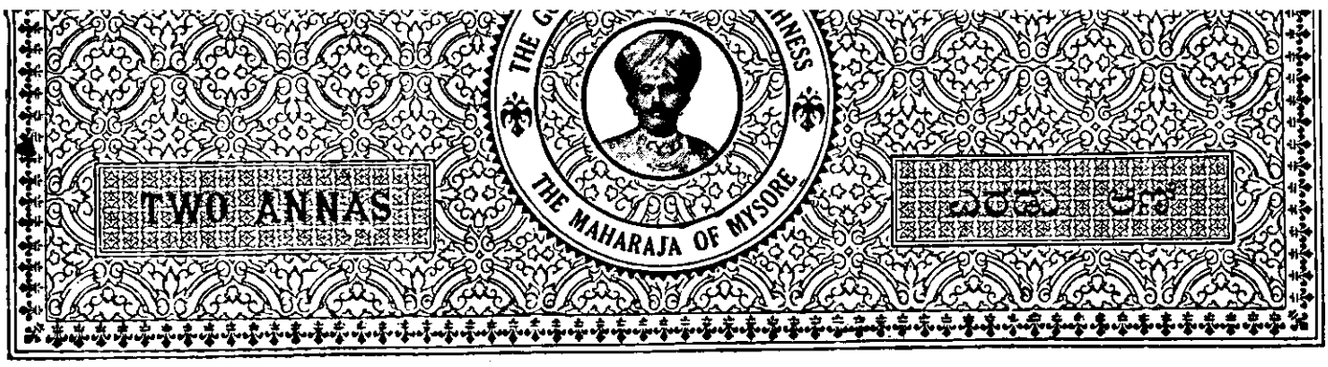
Plaintiff:- The Government of His Highness the Maharaja of Mysore, by the Agent, Mysore Railways —

vs

Defendant:- Haji Ganni Moosa Belgaumwala Merchant, Shimoga.

Order on I.A. No 2 —

OGA This is an application under Order 14. Rule 5 C.P.C. filed by the defendant praying that issues nos 2, 5 and 7 be amended and another additional issue be framed in view of the pleadings in the suit



suit as the issues as now they stand, do not bring out the matter in dispute fully and correctly.—

2 The 2nd issue in the suit is "Did Virupanna receive the same (32 bags of sugar) at Harnahally? Is that Virupanna an agent of the defendant? The latter part of this the issue is sought to be modified as "Did Virupanna represent himself to be an agent of the defendant and is the defendant bound by that representation. In para 3 of the plaint it has been stated on 6-6-1933 the consignment was delivered to one Virupanna, the defendant' agent, who surrendered the concerned receipts, made out

TWO ANNAS
THE MAHARAJA OF MYSORE

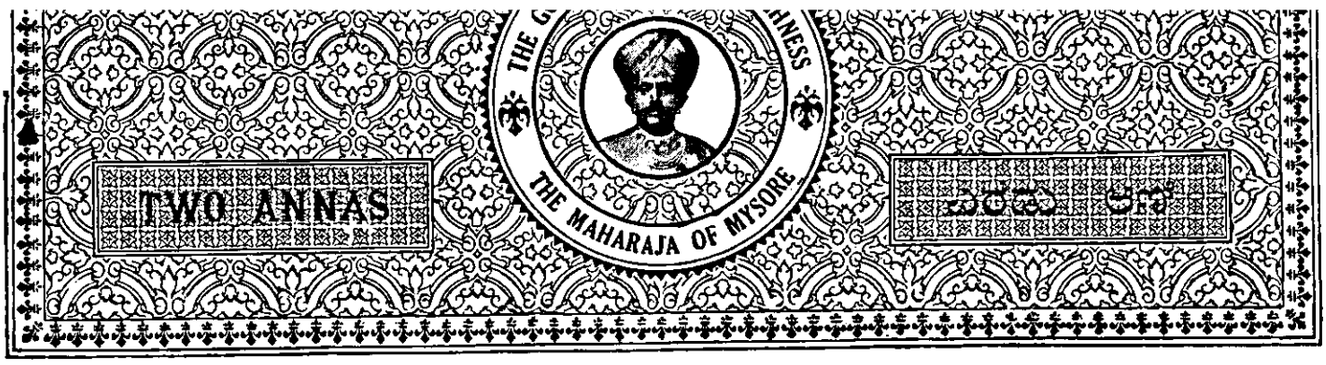
out in the name of the defendant.
The defendant has denied in his
written statement that the said
Virupanna was his agent. The
reply is that the defendant got
despatched 32 bags of sugar from
Marmogoa to Harnahally and that
the railway receipts was surrendered
by one Virupanna who represented
himself to be the defendants agent
and hence the goods were delivered to
him. If all this read out together
it means only this that the plaintiff
delivered
the goods to one who represented
himself to be the defendant's agent
and who surrendered the Railway
Receipts made out in the name
of the defendant. and as such the

SHIMOGA

TWO ANNAS
THE MAHARAJA OF MYSORE

plaintiff took him to be defendant's agent. His, in fact, amounts to this the plaintiff delivered the goods to Virupanna whom he believed to be defendant's agent. The fact in issue therefore is whether that Virupanna to whom the goods were delivered, was the agent of the defendant. As such the 2nd issue does bring out the real matter in controversy and it need not be amended —

13 The 5th issue is "Has this amount been paid by the plaintiff to the M.S.M. Railway, for the benefit of the defendant?". The plaintiff's suit is to recover the amount paid by the plaintiff to the M.S.M. Railway Co, who had paid it as customs duty



on the consignment. The defendant's plea is that payment was not legal nor is it binding upon the defendant and that it is voluntary. The issue as now framed does not bring out all the contentions. Hence I feel that it has to be amended by the addition at its end of the following clause. "Whether the payment was lawful and not voluntary."

4 The seventh issue in the suit is "Is the defendant not properly represented in this suit?". The defendant in this suit has been described as Hajee Gani Moosa Belgaum wala, merchant Shimoga. It is not a suit against any firm, but against an individual The summons is said to have been served

TWO ANNAS
THE MAHARAJA OF MYSORE

served upon Haji Gani Moosa personally
the person who has attested the endorse-
ment is said to be one Venkobha Rao
who is the clerk of Haji Gani Moosa
and that clerk is said to have shown
the person named Haji Gani Moosa.
The person who has taken the copy
of the summons and signed on the
original has put his signature in
Guzarathi language and I am told
that the signature of one Rahimthula
The provisions of the C.P. code hold
that service upon an agent or a
clerk who is doing business in a
shop of any person against whom the
suit is filed is sufficient service. In
the present case the defendant is
a merchant, the person who has
attested

TWO ANNAS
THE MAHARAJA OF MYSORE

attested the signature of the person, wh
has received the summons is said to be
a clerk of the defendant who is a man
conversant with canada language. Here
the person who received the summons
must have received only as the
clerk or agent of the defendant.
Mere service was sufficient, though
it was not personal. There was
no reason for the present contesting
defendant to come and contest the
suit if he were not in any way
connected with the defendant. If the
suit is not against him, then there
is no need for him to come and contest
the suit. In which case there is
only the other alternative of passing
a decree against Haji Gani Hoos

MUNSIFF'S C
SHIMOGA

TWO ANNAS

who had been served on his agent or clerk. Here the real contest in the suit is whether the defendant has been properly represented in the suit The issue as framed is quite correct and there is no reason to amend it.

5/ The only other question that now remains is of framing an additional issue. The goods were delivered to one Virupanna who is said to be an agent of the defendant. The defendant contends that Virupanna was not his agent and that he is bound by any statement made by him, and he further contends that the suit is bad for non-joinder of parties ie

ie Virupanna and M.S.M. Railway and Virupanna. Since this matter has been pleaded and contention raised and there is an issue on it. I think it necessary to frame an additional issue on this point and I frame it as follows:- "Is the suit bad for non-joinder of parties" There is no misjoinder nor has it been shown how there has been any misjoinder of parties or cause of action in this case. I therefore do not include that matter in the additional ...

Pronounced in open Court

Sd/- Habibullakhan

Asst. Judge

25/9/36

GA Fair Copy

Hegundkoo.

Head Assistant

S/Sgt Liscoat told

Copy applied for on the	Applicant told to appear on the	Applicant appeared on the	Copying stopped for want of copying sheets on the	~~Additional~~ copying sheets supplied on the
25 9/36	5 10/36	5 10/36	on 26-9-36 to produce sheets by 5 10/36	3 10/36

Copy ready on the	Copy delivered on the	Copied by	Examined by
5 10/36 Key	5 10/36	S/Sgt Cole	Br Garrard Chas

TWO ANNAS

THE MAHARAJA OF MYSORE

In the Court of the Munsiff of Thirth

O.S. No 171/35-36

Plaintiff The Agent, Mysore Railway

vs

Defendant Hay. Ganesh Roona Belgaum

Additional Issue.

(10). Is the suit bad for non-joinder of parties?

Sd/ H.K.

Munsiff

25/9/36

True Copy

Keyumdar Rao.

Head Clerk

MUNSIFF'S COURT SHIMOGA

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25/9/36	5/10/36	5/10/36		

Copy ready on the	Copy delivered on the	Copied by	Examined by
5/10/36	5/10/36		Chas

SUBJECT .....

.....

.....

iary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue 17.9.37

Signed by Sd/- MKR.

Section

File No.

Serial No.

No. P1599

To

The Pr, Shimoga Dn

Shimoga.

Subj O.S. No 171/35-6 (Mys Rly Vs - Haji Gani Mooda) on the file of the Munsiff Shimoga

Sir,

I am directed to invite reference to the correspondence ending with your letter No. 72 dt 13-7-1937 intimating that the above case has been decided and to enquire when copies of the judgment & decree may be expected to be received from you.

Thanks

No. 290 1933 Office of the public prosecut
Encl. one plt & decree Shimoga, Dated 18th Sept. 1
From

The public prosecutor xxx83.
Shimoga Division

To The General Secretary to the Govt
of Mysore, Law Section, Ban

GENERAL SECRETARIAT
21 SEP. 1937

Sir Subj:- O.S. No. 171/3536 [Mysore Railways
Bhoji Sahukar] on the file of the Munsiff's

With reference to your letter No. P 1599 dt
9-37. I have the honour to state that the Jud
ement & Decree had been sent to the Ag
ore Railways. The defendant has now file
eal against the Judgement and decree of the
nsiff and the Appeal No. R.A. 10/37-38 is pend
-1937. The Judgement and decree we
ntend to have by the Agent, Mysore Ry

From The Office of the public prosecutor
Shimoga, Dated 18th Sept. 1937.

To The public prosecutor
Shimoga Division

No. AWS 83-34-13

The General Secretary to the Government
of Mysore, Law Section, Bangalore.

GENERAL SECRETARIAT
21 SEP. 1937

Subj:- O.S. No. 171/3536 [Mysore Railways V.S. Rajasami Mudaliar] on the file of the Munsiff, Shimoga.

With reference to your letter No. P 1599 dated 9-37. I have the honour to state that the copy of judgement & decree had been sent to the Agent Mysore Railways. The defendant has now filed an appeal against the Judgement and decree of the Munsiff and the Appeal No. R.A. 10/37-38 is posted 9-1937. The Judgement and decree were returned to me by the Agent. Mysore Rys

early

I have the honour to be
Sir,
Your most obedient Servant

[illegible]

Public Prosecutor
Shimoga Division

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 1506/Gen. Cofy of Insft

Bangalore, Dated, 1st October 1937.

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,
Shimoga.

Sir,

O.S.No.171/35-36 on the file of the Munsif, Shimoga
(Mysore Railways vs. Haji Gavi Moosa.)

I am directed to return herewith the copy of the judgment in the above case sent with your letter No. 290 dated 18th September 1937. The receipt of the same may kindly be acknowledged.

I have the honor to be,
Sir,
Your most obedient servant,

for General Secretary to Government.

Appendix F G—1]

Immediate

SUBJECT .....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue..... 1.10.37

Signed by ..... Sd BKR

List of enclosures.....

Copied by ....

Examined by.....

Section Law

File No. 83 - 34

Serial No.

No. P1906 / Revn. Copy of Instr.

To

The Public Prosecutor
Shimoga.

O.S. No 171/35-36 on the file of the Munsiff, Shimoga
(Mysore Railways Vs Haji Gaki Moosa.)

Sir,

I am directed to return herewith the copy of the judgment in the above case sent with your letter no. 290, dated 18th September 1937. The receipt of the same may kindly be acknowledged.

I have the;

BKR
for Genl Secy

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, ~~13th March 1939.~~

No. P 4888

From

The Additional *Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Public Prosecutor,

S h i m o g a.

Sir,

Subject:- R.A.No.10/37-38 on the file of the District Judge, Shimoga (Haji Gavi Moosa Vs Mysore Railways).

I am directed to enquire about the progress made in the above case, and to state in this connection that progress reports of all pending cases should be sent from time to time as required by the Rules for the conduct of Legal Affairs of Government.

I have the honor to be,

Sir,

Your most obedient servant,

For Additional Secretary to Govt.

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 13/2/39

Signed by MKR

List of enclosures.....

Copied by G. 13/2

Examined by.....

Section Law

File No. 83 - 34

Serial No.

No. P4888

To The P. P.

Shimoga.

Subject :- R. A. No. 10/37-38 on the file of the Dist. judge, Shimoga (Haji Gaki Moosa Vs Mysore Railway

Sir,

I am directed to enquire about the progress made in the above case, and to state in this connection that progress Reports of all pending Cases Shall be sent from time to time as required by the Rules for the conduct of Legal Affairs of Govt.

I have etc.,

MKR

For Addl Secy,

WD 0278—GPB—30,000—4-3-38

addressed to the defendant at Harwood

District Judge observes there is no independent evidence
to show that the defendant was either Caucasian or Caucasian
by social basis covered by S. 11. There is nothing on the railway
receipt itself to show that the defendant is the person who
got there bags from Harwood.

There is no use in examining Venkoba Rao or
Nirupama as plaintiff witnesses. It is independent
that Venkoba Rao is. still to clear the defendant can
it would not be in the interest of Nirupama to give evidence
in support of plaintiff's case. Under these circumstances
it is quite certain that they would not have supported
plaintiff's case. Therefore there is no point in saying
that they are not examined as witnesses in this
case. On the other hand it is a point for consideration
if the defendant has not examined his clerk
Venkoba Rao as his witness.

As the learned District Judge has
differed from the learned Munsif on question of fact,
I am of opinion that second appeal may be preferred
to High Court.

It is also a point for consideration if a
decree suit cannot be filed against Nirupama himself.

Copies of deposition pleadings and other
connected records are here with sent for their reference
and the receipt of the entire records may then be acknowledged

I have the honour to be
Sir,
Your most obedient servant

[illegible]
District Munsif
[illegible]

FROM

G. CHANNAPPA, ESQ., B.A., LL.B.,
Advocate and Public Prosecutor,
Shimoga.

16. AUG. 1939

LAW DEPT
GOVT OF MYSORE

To

The Secretary to the Govt. of H.H.
the Maharaja of Mysore -
Law Department -
Bangalore -

Sir,

R. A. 10/37-38 Haji Sami Mossa vs. Govt.

In continuation of my letter
bearing the result of the above
No 65/39-40 dated 20.
appeal, I have the honour to forward herewith a copy of
judgment and decree in the said case and state as
follows:—

Apart from the evidence of PW5 assistant
Station master who delivered goods to Krishnamma under
Exhibit II, there does not seem to be any evidence to
connect the defendant with the sugar bags Consignee
under Exhibit II or that Krishnamma took delivery of
the bags as defendant's agent. The learned Munsiff has
believed the evidence of PW5 whereas the learned District
Judge has not believed his evidence.

Even if PW5 is believed, it is a Point
for Consideration Whether there is sufficient evidence
to Connect the defendant with Sugar bags Consigned
under Ex. II.

No other evidence to show that Krishnamma

Diary No. of letter replied to..... .....

Section Laws

File No. 83 - 34

Serial No. 16

General and Revenue Secretariat

( )

the *193*

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue ..... 17.10. .....1939.

Signed by ..... XmR. N.S.B

Read—

1) Correspondence ending with letter No. 164 dated 14th Aug 1939 from the Pub. Pr. Shimoga forwarding copies of judgment and decree in R.A. 10/37-38 on ~~Order thereon~~ the file of the Dt. Judge, Shimoga — (Haji Gani Moosa vs Govt. by Agent + Traffic Manager, M&S Rys Mysore) and recommending ~~for reasons given~~, a Second appeal being

May this be—

(i) printed?

(ii) treated as a standing order?

(iii) published in the Gazette, English Part?

(iv) translated?

(v) placed at the disposal of the press?

(vi) published in the Gazette, Kannada Part?

preferred in the High
Court against the judgment
& decree of the D. Judge
Shimoga.

Q No P2719-2207 - 17/10-39

Sanction is accorded
to the second appeal being
preferred in the High Court.
The Govt. Advocate
is requested to take immediate
necessary action according
to the Rules for the conduct of G. A. of Govt.
The General Manager
Irrg. Prjs is requested to
place the necessary funds
at the disposal of the G.A
for meeting the expenditure
in connection with the
Second appeal and also give him
further necessary instructions.

OFFICE OF THE PUBLIC PROSECUTOR,

Encls. .....

LAW DEPT. JULY 1939 MYSORE

487/P

Shimoga, dated 20th July 1939

Law 83-3 14/4

21 JUL 1939

G. CHANNAPPA, ESQ., B.A., LL.B.,
Advocate and Public Prosecutor,
Shimoga.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore.
Law Department. Bangalore

Sir.

Re: R. A. 10/37-38. – Haji Gani Mooba Vs. Govt. – on the file of the District Judge Shimoga

I have the honour to ~~state~~ inform you that the above appeal is allowed and the suit is dismissed. I have applied for a copy of the judgment in the said case and I shall forward the same with my opinion thereon soon after the judgment is received from the Court.

I have the honour to be
Sir
Your most obedient Servant.

Public Prosecutor,
Shimoga Division,
Shimoga.

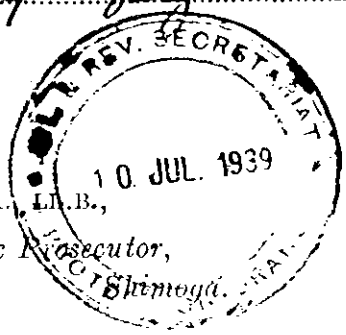
submitted for perusal.
3
11/8/39

Encls. ... .

10 / 1907

OFFICE OF THE PUBLIC PROSECUTOR,

Shimoga, dated 9th July *1939*.



FROM

G. CHANNAPPA, ESQ., B.A., LL.B.,
Advocate and Public Prosecutor,
Shimoga.

To

The Law Secretary
to the Government of His Highness
the Maharaja of Mysore
Bangalore

Sir,

Re: R.A. 10/37-38 – Haji Qasi Mooba Vs. Government of Mysore – on the file of the District Judge, Shimoga.

I have the honour to inform you that the above case is posted to 17-7-39 for judgement.

I have the honour to be
Sir,
Your most obedient Servant.

Public Prosecutor, 9/7
Shimoga Division,
Shimoga.

Encls. ... .

10/P

OFFICE OF THE PUBLIC PROSECUTOR,

Shimoga, dated 30th June *1939*.

FROM

G. CHANNAPPA, ESQ., B.A., LL.B.,
Advocate and Public Prosecutor,
Shimoga.

To

The Law Secretary
Bangalore

Sir,

Ref: RA. 10/37-38. — Haji Gani Hoora U. Mysore Railways - On the file of the District Judge-Shimoga.

— I have the honour to inform you that the above appeal is posted to 8/7/39 for arguments.

I have the honour to be
Sir.
Your most obedient Servant.

6252 1.P

No. S-77

OFFICE OF THE PUBLIC PROSECUTOR,
Shimoga DIVISION,
DISTRICT OFFICE BUILDINGS,

Enc.

Dated 15 April 1939.

FROM

The Public Prosecutor,
Shimoga Division,
Shimoga

To

The Additional Secretary to the Govt
H. H. the Maharaja of Mysore
Bangalore

IOR
8.4

SIR,

Subject :— R. A. 10/37-38. Haji Gani Hoos- vs
Govt (Mysore) re Delisting in District
Court, Shimoga.

I have the honour to state that the above case has been adjourned
to 27/5/39 as
the Jt. Pr was engaged in Civil Session

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor

D 03[illegible]—GPB—900—30-8-37

10-4-39

5775/P

OFFICE OF THE PUBLIC PROSECUTOR,
.....Shimoga..... DIVISION,
DISTRICT OFFICE BUILDINGS,
Dated.....15.....March.....1939.

16 MAR 1939

The Public Prosecutor,
.....Shimoga..... *Division,*
.....Shimoga.....

SAR/16.3

The Additional Secretary to the Govt.
of Mysore,
Bangalore

Subject :— R. A. 10/37-38 (Haj & anr Mpps
Mysore Railways) on the file of the 1st District Munsiff
Shimoga

I have the honour to state that the above case has been adjourned to.....4/4/1939..... as the .....

I have the honour to be,
Sir,
Your most obedient servant,

Public Prosecutor.

OFFICE OF THE PUBLIC PROSECUTOR,
.....Shimoga..... DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 12th July 1937

13th

Law 83-X4 12

SECRETARIAT
14 JULY 1937
GENERAL

To The Public Prosecutor,
.....Shimoga.....*Division*,
.....Shimoga.....

The General Secretary to the Government of Mysore, Law Section, Bangalore.

SIR.

Subject:— OS No 171/35-36 [Mysore Railways vs. Haji Gani Kousa] on the file of the Munsiff, Shimoga.

I have the honor to state that the above case has been ~~adjourned~~ decreed.....

.....

Copy of the decree and judgment will be obtained and submitted in due course.

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

) 02100—900—27.2.36

Subd
Copy of judgment & decree with awaited.

16/7

BKR
16/7

16-7-37

The Public Prosecutor,
Shimoga Division,
Shimoga.

GENERAL SECRETARY
12 JULY 1937

To

The Secretary to the Government of Mysore, Law Section Bangalore

Sir,

Subject:— OS. 171/35-36 [Mysore Railways V/S Haji Sabi Hooda] on the file of the Munsiff, Shimoga

I have the honor to state that the above case has been adjourned 12th July 1937 for Judgement ~~as~~

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

The Public Prosecutor,

Shimoga Division,

Shimoga

GENERAL SECRETARY
9 JULY 1937

No

The General Secretary to the Government of
Mysore. Law Section, Bangalore

Subject:— O.S. 171/36-36 [Mysore Railways Vs.
Haji Sabi Hoseb] on the file of
the Munsiff. Shimoga

I have the honor to state that the above case has been adjourned
7th July 37 for Improvement as
.....

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

FROM

The Public Prosecutor,

Shimoga Division,

Shimoga

7 JULY 1937

To

The General Secretary to the Government of Mysore, Law Section, Bangalore.

SIR.

Subject:— O.S. No. 171/35-36 [Mysore Railways vs. Haji Sabi Hoosa] on the file of the Hon. Sessions, Shimoga.

I have the honor to state that the above case has been adjourned 7th July 1937 for Judgement as

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

GENERAL 5 JULY 1937

.....Shimoga Division,

.....Shimoga.....

To

The General Secretary to the Government of Mysore, Bangalore.

Sir,

Subject:— OS. No. 171/35-36 (Mysore Railways Vs. Haji Sahib Saab) on the file of the Munsiff, Shimoga

I have the honor to state that the above case has been adjourned to 5-7-1937 for judgement as the.....

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

OFFICE OF THE PUBLIC PROSECUTOR,
.....Shimoga..... DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated. 26th June .....193 7.

To

The Public Prosecutor,
.....Shimoga.....*Division,*

GENERAL SECRETARY
28 JUNE 1937
.....Shimoga.....

The General Secretary to the Government of Mysore, Law Section, Bangalore

SIR,

Subject:— O.S. No. 171/35-6 (Mysore Railways Haji Gani Hoosa) on the file of The Munsiff, Shimoga

I have the honor to state that the above case has been adjourned to 30-6-37 for Judgement as the Munsiff is on leave.

Noted
Submitted for perusal. The result of the judgt will be awaited

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

FROM

The Public Prosecutor,
.....Shimoga *Division,*
.....Shimoga.....

The General Secretary to the General Secretary to
The Government of Mysore, Bangalore.

Subject:— O.S. No. 171/35-36 [Mysore Railways V.S. Haji Sami Moosa Belgami Wala] on the file of the Munsiff Shimoga.

I have the honor to state that the above case has been adjourned 25 11 June 1937 for Judgement as

.....

GENERAL SECRETARY.
170
16 JUNE 1937
Law

I have the honor to be,
Sir,
Your most obedient servant,

Public Prosecutor.

02100—900—27.2.36

18/6 b noted
Submit for perusal
22/6

FROM

The Public Prosecutor,
.....*Shimoga Division,*

GENERAL SECRETARIAT 10 JUNE 1937

To .....Shimoga.....

The General Secretary to the Government of
Mysore Law Section Bangalore

Subject:— O.S. No. 171/35-36 | Mysore Railways vs.
Hafiz Gani Hoda] on the file of the
Munsiff. Shimoga.

I have the honor to state that the above case has been adjourned
to instant for arguments.

.....

The Public Prosecutor,

..... Division,

GENERAL SECRETARY 7 JUNE 1937

To .....

The General Secretary to the Government of Mysore Law Section Bangalore

Sir,

Subject:— O. S. No. 17/35-36 [Mysore Railways v. Haji Sahi Kooka Belgaum wala] on the file of the Munsiff, Shimoga

I have the honor to state that the above case has been adjourned 7th June 1937 for Evidence as he.....

GENERAL SECRETARY.
27 MAR. 1937

From *The Public Prosecutor,*
Shimoga Division,
Shimoga.

To Pro
The General Secretary to the Government
of Mysore Bangalore.

SIR,

Subject:— OS No 171/35-36 (Mysore Railways
Haji Sait Hooda Belgaumwala)
on the file of the Munsiff, Shimoga

I have the honor to state that the above case has been adjourned to 20th May 1937 for the Defendants' Evidence as Counsel for the defendant moved for adjournment

GENERAL SECRETARY 22 MAR 1937

From The Public Prosecutor,
Shimoga Division,
Shimoga

To

The General Secretary to the Government
of Mysore, Law Section Bangalore.

SIR.

Subject:— O.S. No 171/35-36 (Mysore Railways
Hoji Fazi Mooba Belgaum Wala) on
the file of the Munsiff. Shimoga.

I have the honor to state that the above case has been adjourned to 26-IV instant for the defendants' Evidence as the

10

PW 6 Mr C. R. Ranganna
Chief Clerk of the Traffic
Managers office was
examined in chief and closed the
case for the plaintiff stated

I have the honor to be,
Sir,
Your most obedient servant,

B Krishna Rao
Public Prosecutor.

WD 02700-900-27-2

4157 p 236

OFFICE OF THE PUBLIC PROSECUTOR,
Shimoga DIVISION,
DISTRICT OFFICE BUILDINGS.

Dated 15th Jan. *19*37
19 7k

The Public Prosecutor,
Shimoga Division,
Shimoga

To

The General Secretary to the Government of Mysore, Law Section, Bangalore.

GENERAL SECRETARIAT 21 JAN. 1937

SIR, I have the honor to state that the above case has been adjourned to 11-2-37 for Evidence at request as the undersigned was engaged in Circuit-ing Sessions case.

Subject:— Cr. No. 171/35-36 (Mysore Railways Vs Haji Sadi Hooda Belgaumwala) on the file of the Munsiff, Shimoga.

I have the honor to be,
Sir,
Your most obedient servant,

B. Krishna R.

From

The Public prosecutor

Shimoga Division

GENERAL SECRETARY
6 OCT. 1937

To The General Secretary to the

BKR Government of Mysore, Bangalore

Sir,

Re:- O.S. No. 171/35-36 on the file of the Munsiff, Shimoga. Railway Suit

I have the honour to acknowledge the receipt of the copy of the Judgement in the above case returned with your No. P. 1906 dated 1st October 1937.

I have the honour to be

Sir,

Your most obedient Servant

Submitted for perusal

BKR 7.10

Sd/- Public prosecutor 3/10

10/5